



Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Monday, 28 January 2019

**Committee:
North Planning Committee**

Date: Tuesday, 5 February 2019
Time: 2.00 pm
Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

Roy Aldcroft
Gerald Dakin
Pauline Dee
Rob Gittins
Roger Hughes
Vince Hunt (Vice Chairman)
Mark Jones
Paul Milner
Peggy Mullock
Paul Wynn (Chairman)

Substitute Members of the Committee

Nicholas Bardsley
Joyce Barrow
Karen Calder
Steve Davenport
Ann Hartley
Simon Jones
Matt Lee
David Minnery
John Price
Brian Williams

Your Committee Officer is:

Emily Marshall Committee Officer
Tel: 01743 257717
Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 4)

To confirm the Minutes of the meeting of the North Planning Committee held on 11th December 2018, attached, marked 2.

Contact: Emily Marshall on 01743 257717

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 2.00 p.m. on Monday, 4th February 2019.

4 Disclosable Pecuniary Interests

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

5 Proposed Dwelling East of Lea Hall Farm, Lee, Ellesmere, Shropshire (18/05140/OUT) (Pages 5 - 20)

Outline application for the erection of a dwelling and detached garage to include means of access (Resubmission).

6 Sandy Lane Farm, Hillside, Prees, Whitchurch, Shropshire (18/04937/FUL) (Pages 21 - 34)

Installation of a 23.8m wind turbine (31.6m to blade tip) and associated infrastructure

7 Land North of Crinan Blakeley, Stanton Upon Hine Heath, Shropshire, SY4 4ND (18/03419/FUL) (Pages 35 - 46)

Erection of a local needs affordable disabled access bungalow

8 Appeals and Appeal Decisions (Pages 47 - 54)

9 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 5th March 2019 in the Shrewsbury Room, Shirehall, Shrewsbury.



Committee and Date

North Planning Committee

5th February 2019

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 11 December 2018

In the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

10.00 - 10.57 am

Responsible Officer: Emily Marshall

Email: emily.marshall@shropshire.gov.uk Tel: 01743 257717

Present

Councillor Paul Wynn (Chairman)

Councillors Roy Aldcroft, Gerald Dakin, Pauline Dee, Rob Gittins, Roger Hughes, Vince Hunt (Vice Chairman), Mark Jones, Paul Milner and Peggy Mullock

49 Apologies for Absence

There were no apologies for absence.

50 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 19th November 2018 be approved as a correct record and signed by the Chairman.

51 Public Question Time

A public question had been submitted by Mr John Simpson, in relation to where responsibility lay for ensuring that developers adhered to planning permission and enforcement issues.

A copy of the question and response given by the Principal Planning Officer is attached to the signed minutes.

52 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

53 5 Mill Street, Whitchurch, Shropshire, SY13 1SE (16/04460/FUL)

The Technical Specialist Planning Officer introduced the application for the erection of four town houses, four apartments and two retail units following demolition of all buildings on site.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Peggy Mullock, as local ward councillor, made a statement and moved to the back of the room, took no part in the debate and did not vote on this item. Councillor Mullock informed the Committee that Whitchurch Town Council were unable to send a representative to the meeting, however they requested that their comments previously submitted in relation to the application, be noted.

Having considered the submitted plans and listened to the comments made by all of the speakers, members unanimously expressed their support for the proposals. They felt that the scheme would enhance the street scene in Whitchurch and provide much needed one bed units.

RESOLVED:

That planning permission be granted subject to the conditions set out in Appendix 1 of the planning officer's report.

54 Proposed Residential Development Land South of Holly Cottage, Rosehill Road, Stoke Heath, Shropshire (18/04470/OUT)

The Principal Planning Officer introduced the outline application for the erection of two dwellings (all matters reserved). Members' attention was drawn to the information contained within the Schedule of Additional letters which summarised further comments from the Agent. The Principal Planning Officer reminded Members' that as the application was an outline application, with all matters reserved, the plans shown were indicative only.

Councillor Sarah Planton, on behalf of Stoke Upon Tern Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

The Principal Planning Officer responded to comments made and explained that the emerging Neighbourhood Plan should be given limited weight and some of the points raised by the Parish Council were issues to be considered at reserved matters stage.

During the ensuing debate and having considered the submitted indicative plans and listened to the comments made by the speaker, Members' supported the principle of development on the site, however they shared the concerns raised by the Parish Council, particularly relating to design, size and layout. Following a proposition to approve the application in accordance with the Officer's recommendation an amendment was put forward to ensure that determination of the reserved matters application be delegated to the Committee consideration.

RESOLVED:

That planning permission be granted subject to:

- The conditions as set out in Appendix 1 of the planning officer's report.
- The application for Reserved Matters being delegated to the Committee for determination.

55 Proposed Residential Development, Land To The West Of Weston Lullingfields, Shropshire (18/04485/OUT)

The Area Planning Officer introduced the outline application for the erection of two dwellings to include access. Members attention was drawn to the information contained within the Schedule of Additional Letters which summarised a further letter of objection from a member of the public. The Area Planning Officer updated the Committee with regards to the visibility splay to the north, beyond the application site and concerning the northerly neighbour's hedgerow and reported an amendment to condition 11.

Councillor Carr, on behalf of Baschurch Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Nigel Thorns, Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

The Area Planning Officer responded to comments raised by the Parish Council representative and reminded the committee that whilst the Council is in the process of preparing its Local Plan Partial Review, this was at an early stage and should be afforded little weight in the determination of the application, the settlement of Weston Lullingfields remained identified as being able to accommodate additional housing growth.

Councillor Pauline Dee withdrew from the meeting at this point.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members' unanimously expressed their support for the officer's recommendation.

RESOLVED:

That planning permission be granted subject to the conditions set out in Appendix 1 of the planning officer's report and an amendment to condition 11.

Councillor Pauline Dee re-joined the meeting at this point.

56 Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals for the northern area be noted.

57 Date of the Next Meeting

It was noted that the meeting due to take place on 8th January 2019 would be cancelled. The next meeting of the North Planning Committee would be held at 2.00

p.m. on Tuesday, 5th February 2019 in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:



Committee and Date
 North Planning Committee
 5th February 2019

Item
5
 Public

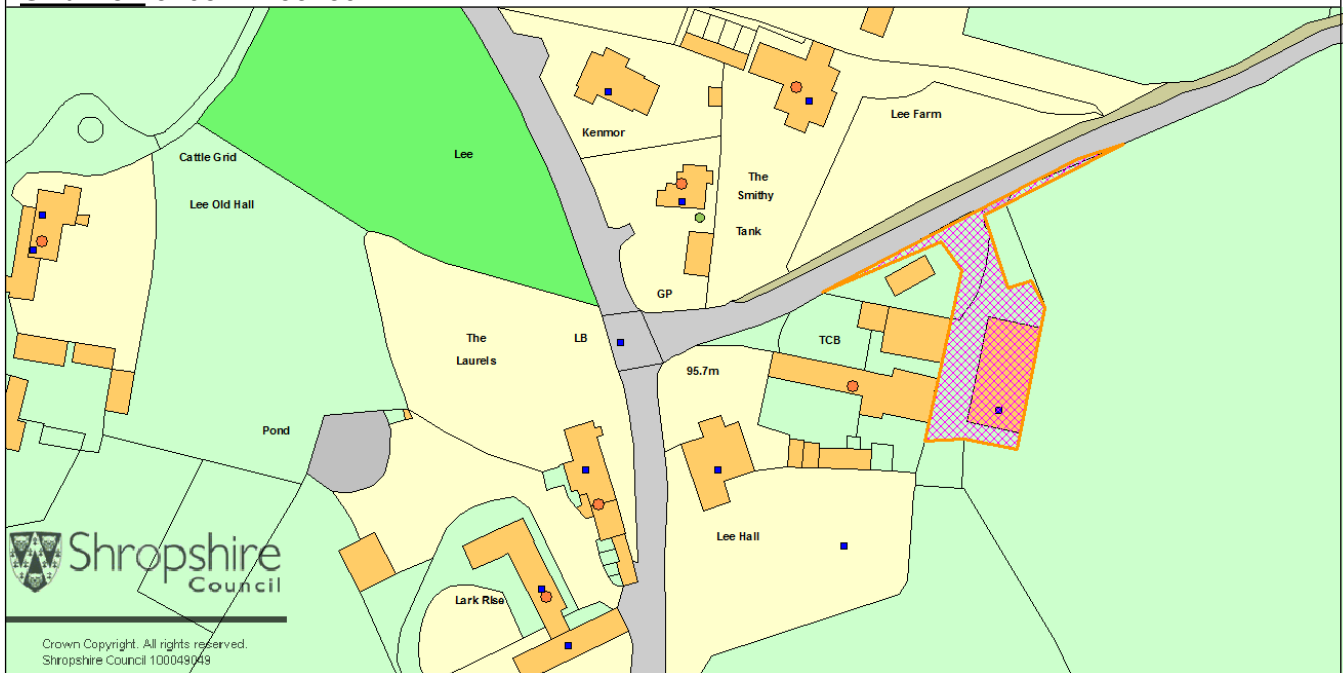
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 18/05140/OUT	<u>Parish:</u>	Ellesmere Rural
<u>Proposal:</u> Outline application for the erection of a dwelling and detached garage to include means of access (Resubmission)		
<u>Site Address:</u> Proposed Dwelling East of Lea Hall Farm Lee Ellesmere Shropshire		
<u>Applicant:</u> Mr And Mrs J Hearn		
<u>Case Officer:</u> Ollie Thomas	<u>email:</u> planningdmnw@shropshire.gov.uk	

Grid Ref: 340544 - 332394



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Recommendation:- Refuse

1. The proposed development site, in replacement of an existing agricultural building, is considered to be located on the edge of the settlement of Lee, a designated Community Cluster as found at S8.2(iv) of the SAMDev Plan, whereby the type and form of development fails to comply with the specific settlement policy requirements, in that only limited infill and conversions will be acceptable. The proposed development cannot be considered as infill development due to its location and neither is the existing structure capable or worthy of conversion, with any residential development in this location having an adverse impact upon the character and setting of both the settlement and landscape. The proposed development is therefore considered as representing unsustainable development that fails to comply with local policies CS1, CS4, CS6 and CS17 of the Core Strategy, MD1, MD2, MD3, MD12 and MD13 of the SAMDev Plan and also the main aims and objectives of the National Planning Policy Framework.
2. Despite the Council wanting to work with the applicant in a positive and proactive manner as required in the National Planning Policy Framework paragraph 38, the proposed development is contrary to adopted policies as set out in the officer report and referred to in the reasons for refusal, and it has not been possible to reach an agreed solution.

1.0 THE PROPOSAL

- 1.1 This application is seeking outline consent for the erection of a single detached dwelling, with detached garage and to include access matters concurrently, with all matters being reserved for later approval.
- 1.2 This application is a resubmission and constitutes the applicants 'free-go' following the recent refusal of planning ref: 18/00023/OUT. Refused for failing to comply with the Local Development Plan and providing insufficient information in regard to highway safety impacts. To which, the proposal has remained identical, albeit a slight variance in the red-line edge and included enhanced details regarding the access arrangements onto the highway.
- 1.3 The applicants have also recently sought permission for a similar scheme on land within the private garden space of the main farmhouse, this was withdrawn due to the application being sought in outline, yet due to the proximity of designated heritage assets, additional supporting documents were requested, in accordance with Part 3 of the Town and Country Planning (Development Management Procedure) Order 2015, but not supplied; planning ref: 18/03333/OUT.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The development site lies to the east of Lea Hall Farm and in replacement of an existing modern portal framed agricultural building, located on the edge of the rural settlement of Lee, south of Ellesmere. The site is directly adjoined by the associated farmstead – part of which is Grade II listed - to the west, with open and undulating agricultural fields on all its other boundaries, with access to the site provided through an existing agricultural access directly off the A528, an unclassified derestricted section of highway leading from Lee to Spunhill. The site

is enclosed on its western and southern boundaries by existing fencing that runs right around the existing building, with the land sloping downhill beyond.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council submitted comments in support of the application, contrary to the Case Officers recommendation, following consultation with the Local Member whom agreed with the Parish Councils comments and provided their material considerations for support, the Chair and Vice Chair of the Planning Committee resolved that the application be determined by members at Committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 SC Drainage (SuDS) – No objections.

4.1.2 SC Affordable Housing – No contribution required.

If the development is policy compliant then whilst the Council considered there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre-dates the judgement of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.

4.1.3 SC Highways Authority – No objection subject to conditions.

Based upon the information contained within the above submitted statement it is considered that, subject to conditions being included on any approval notice, there are no sustainable Highway grounds upon which to base an objection.

4.1.4 SC Ecology – No objection subject to conditions and completed Habitats Regulation Assessment Matrix.

Provided that the works are carried out as proposed, Shropshire Council has not identified any potential effect pathway by which the proposed activity might impact upon any European designated sites. The HRA Matrix must be included in the Planning Officers report for the application and must be discussed and minuted at any committee at which the planning application is presented.

4.1.5 Ellesmere Rural Parish Council – In support.

The Parish Council strongly supports this application and is in favour of this revised scheme and the revised location.

The dwelling falls within the recognised named settlement of Lee (CS5) and

complies with planning policy. The revised location lessens potential impact on the listed building and is sympathetic to the character of the settlement (CS4_). Councillors note no drainage details have included and request that the system be a standalone arrangement. The proposals are considered to be appropriate in scale, and design and appropriate in the context of the local area (CS6).

The Parish Council supports this application.

4.1.6 Cllr. Brian Williams (Local Ward Member for The Meres Division) – Committee request.

“Thank you for your comprehensive review of the reasons why you are unable to recommend the above application for approval. However I differ from you in that I consider the site is contiguous with the existing core of the centre of the settlement and should not be considered as being outside the settlement. So far as the housing target for the Lee cluster is concerned, there is still headroom within the target allocation and the conclusions that there would be harm to the sustainability of the countryside is a matter of opinion rather than demonstrable fact. These are all material matters which merit the consideration of the Committee, especially as I would anticipate that there would be an appeal if the application is refused. It is better for any officer’s judgement if his recommendation is supported by Committee members and this can be evidenced to the appeal Inspector. I cannot concur with this application being decided under delegated powers.”

4.2 - Public Comments – None received at the time of writing.

5.0 THE MAIN ISSUES

**Principle of development
Highways and access matters
Other matters.**

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 What with this proposal being identical in location and scale to that previously refused permission, planning ref: 18/00023/OUT, and with there being no changes to the current Local Development Plan, its assessment and determination of compliance with local policy will remain similar. Furthermore, the application is not accompanied by any Planning Statement, or similar, to suggest the proposals compliance with local policy or to suggest why the judgement made at 18/00023/OUT was inaccurate.

6.1.2 The application site forms a parcel of land, currently occupied by an agricultural building, in association with the adjoining Lea Hall farmstead, neighboured most closely with its farm complex of traditional (Grade II listed) and more modern agricultural buildings.

6.1.3 Despite there being no doubt that Lee Hall farmhouse falls within the settlement confines of Lee (undefined), with Lee constituting a relatively close-knit small

cluster of housing, in the immediate context, around the highway junction of C1031/25 and U1302/10. Albeit there are surrounding small groups of houses just outside of this central cluster, namely to the north-west of Lee, but surrounding this application site, the wider farmstead clearly represents the edge of the settlement in an easterly direction. Furthermore, with there being an agricultural yard and barn complex between the application site and the main cluster of housing, it is questionable as to whether the site lies actually within Lee, as policy CS4 would require. Instead it is reasonable to provide that the application site constitutes an edge of settlement location, equally resisted for new housing within CS4.

- 6.1.4** Lee, a small scale rural settlement, has been identified within the SAMDev plan as a Community Cluster and able to accommodate additional sustainable growth, dependant on the sites compliance with its settlement policy, S8.2(iv), which provides;

“the settlements of Tetchill, Lee and Whitemere are a Community Cluster where development by infilling, groups of houses and conversions may be acceptable on suitable sites within the development boundary identified on the Policies Map. The housing guideline across the Cluster is 20 dwellings. A single allocated site identified on the Policies Map will deliver around 10 dwellings in Tetchill. In Lee and Whitemere development will be limited to single infill plots and conversions.”

- 6.1.5** Lee, like many small rural settlements, has been identified without a development boundary defining its confines, as such each development site is determined on the existing built form of the settlement and the relationship the site has with the existing pattern and built form. As mentioned, the site holds an edge of settlement location, failing to lie within the settlement and upon agricultural land, in replace of a currently used agricultural buildings, resulting in the proposal unable to rely on the presumption of utilising previously developed land – the NPPF explicitly excludes agricultural land/development from this definition, Annex 2.

- 6.1.6** Notwithstanding the above, S8.2(iv) only permits new housing on infill sites or those which see the conversion of existing building. This proposal is clearly not a conversion, so instead relying on the site constituting an infill plot. Although there is no definition of ‘infill’ within local or national policy, a general presumption of infill development is where one would expect to see residential housing, typically between two residential curtilages and within an urbanised/built-up area. In recognition that the settlement policy allows infill development, its use is more specifically aimed at achieving housing that is directly bounded by residential housing and contextually suited for housing. The application site is neither bounded by housing, nor in a location where the reasonable person would expect housing – instead the site is more suited to remaining in its current agricultural form, being read against the rural open countryside extending beyond the site.

- 6.1.7** It is recognised that in order to achieve Shropshire’s growth strategy (economic and housing), and in accordance with the NPPF, the rural areas are required a degree of ‘rebalancing’ through focusing new development in the designated areas (Community Hubs and Clusters) and through the overarching presumption in favour of sustainable development. However, Shropshire is able to demonstrate a robust housing land supply of 6.04 years, consequently local planning policies remain up-to-date and contribute to achieving sustainable development, through

development of the right type of housing, in the right location and within the right timescales.

6.1.8 Additionally, the Council's monitoring report (Fiver Year Hosuing Land Supply Statement, September 2017) provides that Lee (and the remainder of the Cluster) have had 5 completions, with an additional 14 sites within permission – totalling 19 deliverable permissions. The Clusters housing guideline figure provides an additional 20 new dwellings throughout the plan period (2006-2026), resultantly the Cluster is on track to meet and potentially exceed its guideline figure. There is therefore no requirement to allow new development in areas that are not wholly compliant with the Development Plan.

6.1.9 Based on the above, the proposal for a new detached dwelling is considered unsustainable, having adverse impact on all strands of sustainability and is therefore unable to have its principle of development either established or supported.

6.1.10 It is worth noting that Lee, and its wider Community Cluster, have been removed from the Local Plan Partial Review as an identified settlement for additional housing. Instead the settlements will be areas of countryside, where new open market housing is somewhat resisted. However, this plan Review is still in its early stages, out for public consultation and therefore cannot be attributed any significant weight.

6.2 Highways and access matters

6.2.1 The proposal is concurrently seeking consent for the provision of a new domestic access point onto the adjacent highway. The development site is located on the eastern extremities of the settlement, with the access to the proposed new dwelling provided just west of an existing agricultural access point so as to achieve greater visibility, leading off the derestricted unclassified road, U1302/ 10.

6.2.2 The submitted plans show the proposed access arrangement and provision of visibility splays. The details of the visibility splays as dimensioned are considered to be acceptable for the local highway conditions. The proposed access layout is also considered to be acceptable to serve the proposed development. The internal layout as currently indicated, provides an acceptable parking and turning arrangement, but this remains a reserved matter to be decided subsequently.

6.3 Other matters

6.3.1 This application is seeking outline consent with access only, with all other matters (landscaping, layout, design and scale) to be reserved for later approval. As such, only a simple indicative plan has been submitted to show the site as being capable for the erection of a single dwelling, with detached garaging and independent access, parking and turning area. This indicative plan is able to show the siting of a moderately scaled dwelling, sited to the rear, and east, of the site, away from neighbouring agricultural development, attempting to provide minimal impact on all amenities and sufficient space for the parking/turning of vehicles sharing an existing access with the neighbouring properties.

6.3.2 - Ecology matters

The site is located in a rural location accessed via a track off a small hedgerow-lined lane off a small lane which serves the settlement of Lee. A detached residential dwelling, four agricultural building and associated hardstanding border the site to the west. Improved grass fields border the site to the south and east and a small grass field and residential dwellings are located beyond the lane to the north of the site. A field pond is located in the field to the south of site approximately 80m from the development footprint and Lee Wood, an ancient replanted woodland, is located 400m east of the site. The surrounding landscape is dominated by mixed agricultural fields bordered by hedgerows, scattered ponds and woodlands. There is also one designated site within 2km of the application site, White Mere Site of Special Scientific Interest (SSSI), which also forms part of the Midland Meres and Mosses Phase 1 RAMSAR site, is located approximately 620m north-east of the application site.

Although there are numerous ecological assets within close proximity to the site, no protected species were found within the site; however, the development could affect the local population of Great Crested Newts, as such ecological enhancements will be conditioned to ensure their protection.

Following consultation with the Councils Ecologist, following this report is an Officer completed Habitats Regulations Assessment matrix, as requested by the councils Ecology team.

6.3.3 - Impact on designated heritage assets

As mentioned, the site lies within close proximity to a Grade II listed agricultural barn, within the main yard area of Lee Hall. This designated heritage asset has failed to be recognised within submitted documents, equally no form of a heritage assessment accompanies this application. Whilst it is recognised that this application is in Outline (with access matters) only, at the time of planning ref: 18/03333/OUT, it was requested that additional details be submitted so as to consider and ensure this development would not harm the setting or character of this heritage asset. As the two applications are for a similar proposal, it is to be expected that an additional application in roughly equal proximity would be accompanied by such. However, it is expected that the removal of a modern portal framed building, could provide a negligible impact, or betterment to the setting of this heritage asset. Notwithstanding this, until the setting, context and significance of this listed building has been evidenced, Officers are unable to conclude as to whether a residential dwelling in this location will not result in any harm or loss of this heritage asset, in accordance with both local policies and para 66 of the NPPF.

7.0 CONCLUSION

The proposed development for the erection of a single detached dwelling in outline, with access matters being concurrently determined, is unacceptable. The application site fails to fall within the settlement of Lee, whilst failing to comply with the settlement specific policy requirements, S8.2(iv), of infill development or a conversion. The site holds an edge of settlement, visually separated from the main cluster of housing within the settlement by agricultural buildings, being bounded by rolling open fields and having an inherent rural and open characteristic, whereby

development of this site would result in domestic encroachment into the open countryside. Despite the limited benefits attributed from the proposal, the negatives arisen from the proposals unsustainability and failure to comply with the local development plan and the main aims of the NPPF result in a proposal that is unable to weigh in favour of approval. It is therefore recommended that permission be REFUSED.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- ☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ☐ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee

members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

Habitats Regulations Assessment (HRA) Screening Matrix

1.0 Introduction

The proposal described below has the potential to adversely affect a designated site of international importance for nature conservation. The likelihood and significance of these potential effects must be investigated.

This is a record of the Habitats Regulations Assessment (HRA) of the project at Proposed Dwelling East Of Lea Hall Farm, Lee, Ellesmere, Shropshire (18/05140/OUT), undertaken by Shropshire Council as the Local Planning Authority. This HRA is required by Regulation 61 of the Conservation of Habitats and Species Regulations 2017, in accordance with the EC Habitats Directive (Council Directive 92/43/EEC) before the council, as the 'competent authority' under the Regulations, can grant planning permission for the project. In accordance with Government policy, the assessment is also made in relation to sites listed under the 1971 Ramsar convention.

Date of completion for the HRA screening matrix:

10th December 2018

HRA screening matrix completed by:

Sophie Milburn
Assistant Biodiversity Officer
sophie.milburn@shropshire.gov.uk
Tel.: 01743 254765

2.0 HRA Stage 1 – Screening

This stage of the process aims to identify the likely impacts of a project upon an international site, either alone or in combination with other plans and projects, and to consider if the impacts are likely to be significant. Following recent case law (*People Over Wind v Coillte Teoranta C-*

323/17), any proposed mitigation measures to avoid or reduce adverse impacts are not taken into account in Stage 1. If such measures are required, then they will be considered in stage 2, Appropriate Assessment.

2.1 Summary Table 1: Details of project

Name of plan or project	18/05140/OUT Proposed Dwelling East Of Lea Hall Farm, Lee, Ellesmere, Shropshire
Name and description of Natura 2000 site	<p>White Mere Midland Meres and Mosses Ramsar Phase 1 (31.97ha) is one of the richest of the North Shropshire meres for aquatic plants. It is included within the Ramsar Phase for its open water and carr habitats with the plant species <i>Carex elongata</i> and <i>Eleocharis acicularis</i></p> <p>Clarepool Moss Midland Meres and Mosses Ramsar Phase 1 (and part of West Midlands Mosses SAC) (15.62ha) is a basin mire which has developed, in part at least, as a quaking bog (Schwingmoor). It is included within the Ramsar Phase for its Open Water and Basin Mire habitats with the species Dotted Footman.</p> <p>West Midland Mosses SAC (184.18ha) is a collection of sites which between them represent nationally important dystrophic water bodies, transition mires and quaking bogs.</p> <p>Annex I Habitats that are a primary reason for selection of site:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Natural dystrophic lakes and ponds <input type="checkbox"/> Transition mires and quaking bogs <p>Fenn`s, Whixall, Bettisfield, Wem and Cadney Mosses SAC and Midland Meres and Mosses Ramsar Phase 2 (949.2ha) together form an outstanding example of lowland raised mire. The site as a whole supports a wide range of characteristic acid peat bog vegetation. The moss complex, which straddles the border between Shropshire, England and Clwyd, Wales, is one of the largest and most southerly raised mires in Britain.</p> <p>Annex I Habitats that are a primary reason for selection of the SAC:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Active raised bog. <p>Annex I Habitats present as a qualifying feature but not a primary reason for selection of the SAC:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Degraded raised bogs still capable of natural regeneration <p>The site is included within the Ramsar Phase 2 due to its Raised Bog and Carr habitats with invertebrate assemblages and the plant species <i>polifolia</i>, <i>Dicranum undulatum</i> and <i>Sphagnum pulchrum</i></p>

Brownheath Moss Midland Meres and Mosses Ramsar Phase 2 (31.32ha) differs from the other North Shropshire Mosses in consisting of a series of pools set in an area of heathland and woodland, rather than an expanse of peat. It is included in the Ramsar Phase for its Fen and Carr habitats with the species *Carex elongata*

Cole Mere Midland Meres and Mosses Ramsar Phase 2 is one of the largest of the Shropshire meres, with an almost complete fringe of woodland. There is a comparatively rich flora of aquatic macrophytes and the aquatic invertebrate fauna of Cole Mere is particularly diverse. It is included in the Ramsar Phase for its Open water, Wet pasture and Carr habitats with the plant species *Carex elongata*

Sweat Mere and Crose Mere Midland Meres and Mosses Ramsar Phase 2 (38.58ha) are two dissimilar meres constituting a site of exceptional importance. The meres and their surrounds form a complex of open water, reedswamp, fen and woodland habitats unrivalled in Shropshire for the variety of natural features of special scientific interest. It is included in the Ramsar Phase for its Open water, Swamp, Fen, Wet pasture and Carr habitats with the species *Carex elongata* and *Thelypteris palustris*

Midland Meres and Mosses (Ramsar phase 1) Reasons for designation:

- ☐ **Criterion 1a.** A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog.
- ☐ **Criterion 2a.** Supports a number of rare species of plants associated with wetlands. The site contains the nationally scarce six-stamened waterwort *Elatine hexandra*, needle spike-rush *Eleocharis acicularis*, cowbane *Cicuta virosa*, marsh fern *Thelypteris palustris* and elongated sedge *Carex elongate*.
- ☐ **Criterion 2a.** Contains an assemblage of invertebrates, including the following rare wetland species. 3 species considered to be endangered in Britain, the caddis fly *Hagenella clathrata*, the fly *Limnophila fasciata* and the spider *Cararita limnaea*. Other wetland Red Data Book species are; the beetles *Lathrobium rufipenne* and *Donacia aquatica*, the flies *Prionocera pubescens* and *Gonomyia abbreviata* and the spider *Sitticus floricola*.

Midland Meres and Mosses (Ramsar phase 2) Reasons

	<p>for designation:</p> <ul style="list-style-type: none"> ☐ Criterion 1a. A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog. ☐ Criterion 2a. Supports a number of rare plants associated with wetlands, including the nationally scarce cowbane <i>Cicuta virosa</i>, elongated sedge <i>Carex elongate</i> and bog rosemary <i>Andromeda polifolia</i>. Also present are the nationally scarce bryophytes <i>Dicranum undulatum</i>, <i>Dircranum affine</i> and <i>Sphagnum pulchrum</i>. ☐ Criterion 2a. Containing an assemblage of invertebrates, including several rare wetland species. There are 16 species of Red Data Book insect listed for the site including the following endangered species: the moth <i>Glyphipteryx lathamella</i>, the caddisfly <i>Hagenella clathrata</i> and the sawfly <i>Trichiosoma vitellinae</i>.
Description of the plan or project	Outline application for the erection of a dwelling and detached garage to include means of access (Resubmission)
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No projects or plans have been identified which could act in-combination with this project to cause likely significant effects on any of these sites.

2.2 Statement

There are a number of European designated sites within 10km of this site:

- White Mere (part of Midland Meres & Mosses – Phase 1) lies ~630m NE
- Cole Mere (part of Midland Meres & Mosses – Phase 2) lies ~2.4km NE
- Sweat Mere and Crose Mere (part of Midland Meres & Mosses – Phase 2) lies ~2.6km SE
- Clarepool Moss (part of Midland Meres & Mosses – Phase 1 and part of West Midlands Mosses SAC) lies ~3.2km NE
- Fenn's, Whixall, Bettisfield, Wem & Cadney Mosses (SAC and part of Midland Meres & Mosses – Phase 2) lies ~6.5km NE
- Brownheath Moss (part of Midland Meres & Mosses – Phase 2) lies ~6.5km SE

The proposed development site does not lie within the water catchment of any of the European designated sites. No potential impacts in relation to water pollution are therefore predicted.

No impacts are anticipated from air pollution as the development is small.

There may be a very small increase in recreational pressure but this is not considered to be significant as the proposal is for 1 additional dwelling.

No effect pathways have been identified resulting from this development as proposed which would have the potential to impact on any European designated sites.

There is no legal barrier under the Habitats Regulations Assessment process to planning permission being granted in this case.

3.0 Guidance on completing the HRA Screening Matrix

The Habitats Regulations Assessment process

Essentially, there are two ‘tests’ incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the ‘significance test’ and the other known as the ‘integrity test’. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the ‘integrity test’ need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site,
must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context ‘likely’ means “probably”, or “it well might happen”, not merely that it is a fanciful possibility. ‘Significant’ means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitats Regulations Assessment of Local Development Documents (Revised Draft 2009).

Habitats Regulations Assessment Outcomes

A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted.

Duty of the Local Planning Authority

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulations Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS4 - Community Hubs and Community Clusters

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

CS11 - Type and Affordability of housing

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD7A - Managing Housing Development in the MD7A - Managing Housing Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S8 - Ellesmere

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

NS/88/1160/FUL Erection of agricultural workers dwelling for use in connection with Kenwick Grange Farm REFUSE 11th January 1989

18/03333/OUT Outline application for the erection of 1No dwelling (all matters reserved) NPW 21st August 2018

18/05141/FUL Outline application for the erection of a dwelling to include means of access (Resubmission) REC

18/00023/OUT Outline application for the erection of a dwelling with detached garage to include means of access REFUSE 2nd March 2018

18/03889/OUT Outline application (access for consideration) for the erection of one dwelling WITHDRAWN 13th November 2018

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr R. Macey
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Local Member Cllr Brian Williams

Appendices None

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Committee and Date
 North Planning Committee
 5th February 2019

Item
6
 Public

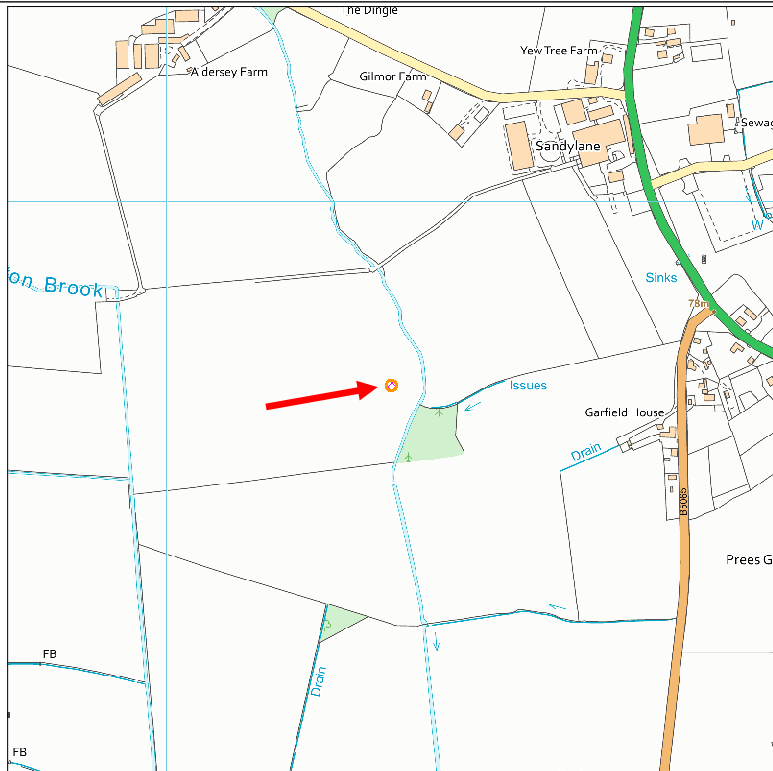
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 18/04937/FUL	Parish:	Prees
Proposal: Installation of a 23.8m wind turbine (31.6m to blade tip) and associated infrastructure		
Site Address: Sandy Lane Farm Hillside Prees Whitchurch Shropshire		
Applicant: Eocycle		
Case Officer: Kelvin Hall	email: planningdmc@shropshire.gov.uk	

Grid Ref: 355595 - 332033



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Recommendation:- Refuse for reason set out below.

The proposed development would provide benefits including the generation of renewable energy for the farm and a reduction in the use of non-renewable sources of energy. Notwithstanding these benefits, SAMDev Plan policy MD8 of the adopted Development Plan states that applications for wind energy development are to be assessed against national policy guidance. The NPPF states, at footnote 49 to paragraph 154, that proposals for wind energy development should not be considered acceptable unless they are in an area identified as suitable for wind energy development in the Development Plan. As at present the Development Plan does not identify such areas, the proposed development is not considered to be acceptable as it conflicts with footnote 49 to paragraph 154 of the NPPF and also with policy MD8 of the SAMDev Plan.

REPORT**1.0 THE PROPOSAL**

1.1 The application seeks planning permission for the installation of a wind turbine on agricultural land at Sandy Lane Farm, Prees. The turbine would have a hub height of 23.7 metres and a height to blade tip of 31.6 metres. It would have a three-bladed rotor with diameter 15.8 metres. It would be light grey in colour. The turbine would be connected to an existing meter at the farm via a cable laid along farmland and an existing private track. The application states that the operation period of the turbine would be 25 years.

2.0 SITE LOCATION/DESCRIPTION

2.1 Sandy Lane Farm is located approximately 1.5km to the south of the village of Prees. The turbine would be sited towards the eastern side of a field, approximately 400 metres to the south-west of the farm buildings. There is a tree-lined stream that runs approximately north-south approximately 70 metres to the east and a wooded area approximately 80 metres to the south-east. There are a number of public footpaths in the area; further details are provided in the report below.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Officer recommendation is contrary to the views of the Parish Council. The Planning Manager in consultation with the Committee Chairman agrees that the Parish Council has raised material planning issues and that it is appropriate for the application to be determined by Planning Committee.

4.0 COMMUNITY REPRESENTATIONS**4.1 Consultee Comments**

4.1.1 **Prees Parish Council** Supports the application, as long as the Footpath officers are satisfied that the turbine is a safe distance from the footpath.

4.1.2 **Historic England** Do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

4.1.3 **SC Conservation** No objection.

Comment from the HE Team was given in response to 18/02645/SCR where a wider area was suggested in terms of assessments required.

In considering the proposal due regard to the following local policies and guidance has been taken, when applicable: CS5 Countryside and Green Belt, CS6 Sustainable Design and Development and CS17 Environmental Networks, MD13 Historic Environment and with national policies and guidance, National Planning Policy Framework (NPPF) published July 2018 and Section 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

A Heritage Assessment (as part of the Planning Statement) has been submitted with the application. This assessment has assessed designated heritage assets within 2 kms and has included a radius of 5 km within the Hawkstone Park boundary of the site (requested as part of the above mentioned HE Team comment on the screening opinion). It is considered to be in line with the requirements of the NPPF and MD13.

Having read the submitted assessment, no objection its conclusions are made and the harm caused would be at the lower end of less than substantial and although this is still harm which will need to be considered in the planning balance when considering public benefits of the proposed scheme it is expected that the weight given to this harm will be minimal.

Due consideration of the colour of the turbine in the landscape should be given to ensure that it is as recessive as possible. Recommends condition to agree the colour of the turbine.

4.1.4 **SC Archaeology** No comments to make.

4.1.5 **Ministry of Defence - Safeguarding** No objection. The application is for 1 turbine at 31.60 metres to blade tip. This has been assessed using the grid references below as submitted in the planning application or in the developers' or your pro-forma.

The principal safeguarding concern of the MOD with respect to the development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installations.

Further information about the effects of wind turbines on MOD interests can be obtained from the following websites:

<https://www.gov.uk/government/publications/wind-farms-ministry-of-defence-safeguarding>

4.1.6 **Natural England** No comments.

4.1.7 **SC Ecology** No comments to make following the additional information submitted which confirms the siting of the turbine and connections in relation to trees/woodland and ponds.

4.1.8 SC Public Protection No objection subject to conditions.

Given the turbine type, location and predicted noise emissions, it is not considered that significant noise disturbance is likely to arise from the installation. It is recommended that conditions are attached to require that noise emissions do not exceed 35dB LAeqT at 8m/s hub height wind speed free field at the curtilage of any dwelling (including garden areas) lawfully existing at the time of this consent (excluding that in the ownership or control of the applicant; the wind turbine to be maintained to operate and perform in accordance with the manufacturer's specifications/recommendations; to undertake measurement and assessment of noise if a justified complaint is received, to verify whether noise meets the specified level.

4.1.9 SC Highways No objection.

The site of the proposed single wind turbine is a field that is located to the east of the A49. Consideration is given to how or where the applicant proposes to access the site from a public highway. The applicant has stated that the intention is to access the site via the existing farm access off the A49. This access is considered to be suitable for the types of vehicles the applicant has stated will be used in the delivery and the construction process. To further reduce the minimal impact on highway users, large vehicle movement will be carried out outside the peak traffic flow hours. Overall the delivery, construction and the future maintenance of the single turbine is expected to have a minimal impact on the highway network.

4.1.10 SC Rights of Way No objections following confirmation as to the separation distance between the turbine and the nearest public rights of way.**4.1.11 SC Drainage** Recommends informatives.**4.1.12 Shropshire Council landscape consultant, ESP Ltd.** Raises concerns over the submitted Landscape and Visual Impact Assessment (LVIA).

The LVIA has been prepared in a proportionate manner in broad compliance with relevant national guidelines. However, we have some concerns primarily in relation to the judgements made on landscape and visual effects and on the limited selection of locations for the assessment of visual effects. As a result, we do not believe that the findings of the LVIA are reliable.

The LVIA concludes that the proposed wind turbine is predicted to have a minor significance of effect on landscape character and effects on visual amenity that range from moderate/major to neutral. However, no assessment is made as to whether effects are positive/beneficial or negative/adverse, with a neutral perspective adopted for all effects, which is contrary to best practice.

Our review concludes that the LVIA has been carried out for the most part in compliance with Guidelines for Landscape and Visual Impact Assessment 3rd Edition (GLVIA3) and guidance specific to wind energy generation.

We have a number of concerns relating to the methodology used in the assessment

of landscape and visual effects and in the application of that methodology and we have made the 7 recommendations below, and consider that these will need to be satisfactorily addressed before the LVIA may be relied upon.

- The applicant be requested to clarify that all electricity generated will be used on site and that the proposals do not include any infrastructure associated with grid connection
- The criteria for the assessment of nature of receptor and nature of effect in the LVIA be amended to bring them in line with the best practice set out in GLVIA3
- The LVIA be amended to include an assessment of whether effects are positive/beneficial or negative/adverse
- The LVIA be amended to ensure that judgements on significance of effect are correctly made in accordance with the matrix in the LVIA methodology.
- The influence of the historic landscape at Hawkstone Park on landscape character be reviewed in the LVIA
- The assessment of visual effects predicted at viewpoints 1 and 2 be reviewed in the light of our concerns over contradictions in the assessment narration and the judgements made on the nature of receptor and nature of effect
- Consideration be given to increasing the number of locations for the assessment of visual effects, with particular regard to users of the public footpath network in the vicinity of the proposal and residential receptors, to enable a more comprehensive assessment of the likely significant effects.

4.2 **Public Comments**

4.2.1 The application has been advertised by site notice. In addition thirteen properties in the local area have been directly notified. This publicity includes all properties within 500 metres of the site.

4.2.2 One letter of support has been received, from an address in Manchester:

- renewable energy on a smaller scale when it benefits home and farm owners and their families directly, which indirectly benefits all of us, should be supported;
- application should be approved for the prosperity of the planet and inhabitants.

5.0 **THE MAIN ISSUES**

- Screening Opinion
- Pre-application community consultation
- Principle of development
- Siting, scale and design; impact on landscape character
- Historic environment considerations
- Residential and local amenity, and safety considerations
- Traffic and access considerations
- Ecological considerations
- Planning balance

6.0 OFFICER APPRAISAL

6.1 Screening Opinion

6.1.1 The Council issued a Screening Opinion in 2018 for a wind turbine at Sandy Land Farm under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. This was for a turbine of identical dimensions to the proposed development but at a site approximately 180 metres to the north-east. The Screening Opinion advised that Environmental Impact Assessment (EIA) for the development would not be required. The factors relevant to that decision are similar for the revised location. Having undertaken a re-assessment, the Council considers that the proposed development would be unlikely to have significant effects on the environment by virtue of factors such as its nature, size or location. As such the Council's revised Screening Opinion is that EIA is not required.

6.2 Pre-application community consultation

6.2.1 Under article 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) there is a statutory requirement that applicants undertake pre-application consultation on proposals for certain types of wind turbine development. The current application falls within these requirements due to its size.

6.2.2 In line with the above Order the application includes details of this pre-application community consultation, the responses received, and the account that was taken of the responses. The consultation included:

- The launch of a dedicated website for the proposed development;
- A letter drop to 25 properties closest to the site, signposting residents to a website with an invitation to complete a survey allowing comments to be made.

6.2.3 The application states that responses were received from seven residents. Of these, six (86%) indicated support for the proposal.

6.3 Principle of development

6.3.1 Applications need to be determined in accordance with the Development Plan unless material considerations indicate otherwise. National planning policy is provided by the National Planning Policy Framework (NPPF) and is a material consideration.

6.3.2 Strategic Objective 9 of the Core Strategy promotes the generation of energy from renewable sources. Policy CS6 seeks improvements to renewable energy generation where possible. Policy CS8 positively encourages infrastructure that mitigates and adapts to climate change, including decentralised, low carbon and renewable energy generation, where this has no significant adverse impact on recognised environmental assets.

6.3.3 The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development (para. 7). It states that at the heart of the Framework is a presumption in favour of sustainable development (para. 10). In para. 148 it states that the planning system should support renewable and low carbon energy and associated infrastructure. It advises that significant weight should be placed on the need to support economic growth taking into account local

business needs and wider opportunities for development.

- 6.3.4 Core Strategy policy CS5 allows for small-scale new economic development that diversifies the rural economy, including farm diversification schemes (although proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts). In additional policy CS13 supports rural enterprise and diversification of the economy.
- 6.3.5 The proposed turbine would provide renewable energy for on-site consumption only. The energy generated would be used to power on-site farm activities and this would reduce dependency on non-renewable sources. The NPPF states that planning authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions (para.154). It is considered that the renewable energy benefits of the proposal are fully supported by both national and local planning policies.
- 6.3.6 Notwithstanding the above, the NPPF is clear at that “Except for applications for the repowering of existing wind turbines, a proposed wind energy development involving one or more turbines should not be considered acceptable unless [a] it is in an area identified as suitable for wind energy development in the development plan; and, [b] following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been fully addressed and the proposal has their backing” (footnote 49 to para. 154).
- 6.3.7 This requirement is also repeated in the national planning practice guidance (NPPG) on renewable energy at para. 005 reference ID: 5-005-20150618. The NPPG goes on to state that ‘suitable areas for wind energy development will need to have been allocated clearly in a Local or Neighbourhood Plan. Maps showing the wind resource as favourable to wind turbines or similar will not be sufficient’ (para. 032 reference ID: 5-032-150618).
- 6.3.8 Community responses
In relation to [b] above, the Parish Council has confirmed that it supports the application. In addition, following direct notification of all properties within 500 metres of the site, there has been no public representations received. There is therefore no indication that there is any local concerns over the proposal. Officers therefore consider that the application meets the test in [b] above.
- 6.3.9 Areas identified for wind development
In order to be deemed to an acceptable development the NPPF also requires that the site lies within an area identified for wind development. The Development Plan does not identify areas that are suitable for wind energy development. SAMDev Plan policy MD8 states that wind energy proposals should be assessed against national policy guidance, pending the development of new local policy as part of the proposed Plan review. The supporting text to this policy states that applications will be considered against national policy guidance, including the Written Ministerial Statement (WMS) of 18th June 2015. The requirements in this WMS were subsequently included in the NPPF as detailed in section 6.3.6 above.
- 6.3.10 There are no published plans or policies, either adopted or under public consultation, of areas suitable for wind energy development. Consultation is taking place on

preferred site allocations but this does not include areas for potential wind development.

- 6.3.11 The planning application recognises that there is a lack of specific wind energy guidance within the Shropshire Council boundary. It suggests that, with no detailed Local or Neighbourhood Plan (NP) updated to identify areas of landscape considered suitable for development post-publication of the WMS, it is not appropriate to imply a blanket ban on such developments within the area.
- 6.3.12 However, as part of the formal Examination of the SAMDev Plan, the Inspector confirmed that, following modifications, the wording of SAMDev Plan policy MD8 as set out above does accord with the WMS of 2015. The NPPF states that plans should consider identifying suitable areas for renewable energy and low carbon energy sources, and supporting infrastructure, where this would help secure their development (para. 151). However it does not make this mandatory.
- 6.3.13 In summary, it is considered that the Development Plan policy is consistent with national policy. In making a decision on the application, officers consider that significant weight should be given to the recently-published NPPF which states that the proposal does not constitute an acceptable development.

6.4 **Siting, scale and design; impact on landscape character**

- 6.4.1 Core Strategy policy CS6 seeks to ensure that development protects and conserves the natural and built environment, and is appropriate in scale and design taking into account local context and character. Policy CS17 requires that development protects and enhances the diversity, high quality and local character of Shropshire's environment and does not adversely affect the visual and other values of these assets.
- 6.4.2 The application includes a Landscape and Visual Impact Assessment (LVIA) and this has been reviewed by the Council's landscape consultants ESP Ltd. ESP raise a number of concerns relating to the methodology used in the LVIA. The applicant's landscape consultant has sought to address these however ESP consider that six of their seven concerns remain and that the findings of the LVIA are unreliable.
- 6.4.3 The turbine is relatively small in scale, being sized to provide renewable energy for the farm itself. The area is characterised by mixed farming land use with varied patterns of hedged fields. The local landscape is relatively flat. Views are generally filtered due to farm and other buildings, clustered hamlets and villages with field trees and hedgerows. There is a woodland approximately 75 metres to the south-east of the site.
- 6.4.4 From the public highway to the east the LVIA suggests that the turbine would be a noticeable addition to the landscape but not particularly out of scale or dominating within the view. The intervening woodland would screen some views and increase the perception of separation. The LVIA states that there may be partial views of the turbine from the Grade II* listed Soulton Hall, approximately 1.6km to the south-west, in winter, but would not be visible at other times. The LVIA states that the turbine would have an impact on residential receptors but given the separation distance and frequent interruption of views by vegetation this impact would be limited.

6.4.5 As noted by the Council's landscape consultants, the LVIA concludes that the proposed wind turbine is predicted to have a minor significance of effect on landscape character and effects on visual amenity that range from moderate/major to neutral. ESP Ltd. has raised concerns over how the LVIA combines measures of 'sensitivity' with 'magnitude'. They also raise concern that the LVIA contains insufficient assessment relating to the grade 1 registered Hawkstone Park. As such ESP considers that the LVIA underestimates the significance of effects on landscape character.

6.4.6 Officers concur with the comments of ESP that the LVIA would have benefitted from a greater number of viewpoints to assess visual impacts, particularly in relation to the public rights of way network. There are a number of footpaths in the vicinity, including one running along the western side of the watercourse approximately 60 metres to the east, and one to the south-west approximately 140 metres away. Users of these paths would have uninterrupted views of the turbine from sections of these paths and officers consider that this has not been adequately reflected in the LVIA.

6.4.7 Notwithstanding the concerns over the reliability of the submitted LVIA, given the size of the turbine and the public viewpoints in the vicinity the proposal would result in a noticeable addition to the landscape, and impact adversely on landscape character and visual amenity. Nevertheless in relation to public highways and private properties these impacts are mitigated to some degree by the screening effect of existing vegetation in the area which filters open views, and the separation distances. It is accepted that there would be no mitigation against the open views of the turbine from sections of footpaths in the local area, albeit that these would be transient as path users will be passing through the area.

6.4.8 A planning condition can be imposed to require that the turbine is removed once no longer required for electricity generation.

6.4.9 Cumulative impacts: In support of an assessment of potential cumulative impacts the LVIA has considered existing operational turbines, and also permitted but not built turbines and others that may be awaiting determination. The LVIA advises that there are no such turbines within the 5km study area and therefore no cumulative impact would occur. Officers concur with this.

6.5 **Historic environment considerations**

6.5.1 Core Strategy policies CS6 and CS17 and SAMDev Plan policy MD13 require that development proposals protect and conserve the built and historic environment, and do not adversely affect the heritage values of these assets. In addition, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission which affects the setting of a Listed Building, the local planning authority shall have special regard to the desirability of preserving the setting.

6.5.2 The application is supported by a Heritage Assessment which assesses the impact of the proposed turbine on heritage assets in the area. These include listed buildings, scheduled ancient monuments, and Hawkstone Park registered park. The Council's Conservation Officer has confirmed that Heritage Assessment meets

the requirements of national and local policy. There are a number of listed buildings in the wider area. These include the Grade II listed Sandy Lane farmhouse, approximately 390 metres to the north-east and the Grade II listed Aldersey farmhouse, approximately 480 metres to the north-west. The site lies approximately 2.4km to the north-west of the boundary of Hawkstone Park a Grade I registered park.

- 6.5.3 The submitted report considers that intervening land cover consisting of buildings, woodland, shelterbelts, hedgerows and established vegetation would significantly reduce the visual envelope of the proposed turbine, greatly negating potential impact on heritage assets. In relation to Hawkstone Park the Heritage Assessment considers that the turbine would be largely, if not wholly, absorbed into the wider landscape with minimal to no impact on the park, or the setting or qualifying characteristics of the historic sites within the Park boundary.
- 6.5.4 It concludes that the proposed turbine would present a minor to negligible impact to the local and wider historic landscape. The Conservation Officer considers that, whilst there would be some harm to heritage assets, this would be low and little weight can be given to this in the planning balance.
- 6.5.5 The proposed colour of the turbine is described as light grey and, should planning permission be granted, it is considered that a condition should be imposed to require agreement as to the precise shade in line with the recommendation of the Conservation Officer.
- 6.6 **Residential, local amenity and safety considerations**
- 6.6.1 Core Strategy policy CS6 requires that developments safeguard residential and local amenity.
- 6.6.2 Noise impacts: The application is accompanied by a noise report including details of noise emitted from this type of wind turbine. The noise report has predicted the likely level of noise at the nearest noise-sensitive receptors, and has calculated that these would all be below 35dB. It advises that these levels meet the limits set out in guidance ETSU-R-97: The Assessment and Rating of Noise from Wind Turbines (1997). The report suggests that the turbine could operate without adversely impacting the amenity of residents in the area.
- 6.6.3 The Public Protection officer considers that significant noise disturbance is unlikely to arise and has recommended that conditions are attached to specify that the turbine does not exceed 35dB at the curtilage of any dwelling; to require maintenance of the turbine in accordance with the manufacturer's specifications; and to require noise monitoring to be undertaken if a verified complaint is received. It is considered that these conditions would be appropriate and sufficient to avoid adverse residential amenity.
- 6.6.4 Shadow flicker: The application states that where sufficient separation exists between a wind turbine and nearby dwellings, shadow flicker should not be a problem. It states that, as a general rule, this distance should be 10 rotor diameters, i.e. 157 metres. The turbine would be more than 300 metres from the nearest properties and as such it is not anticipated that there would be any issues caused by shadow flicker.

6.6.5 Impact on air traffic safety: The proposal has the potential to cause a physical obstruction to air traffic movements and to result in interference to air traffic control and defence radar systems. However for this particular proposal no concerns have been raised by the Ministry of Defence.

6.6.6 Public safety considerations: Guidance indicates that a safe separation distance is the turbine's fall-over distance plus 10%. The Council's rights of way team have suggested that this distance should apply to the nearest footpaths. The turbine would be sited more than 50 metres from the nearest rights of way and as such complies with this guidance.

6.7 **Traffic and access considerations**

6.7.1 The number of vehicles associated with the construction of the development is anticipated to be small. These would access the site via the existing farm access from the A49 before crossing farmland along an existing farm track. Once constructed vehicle movements associated with the maintenance of the turbine would be expected to be minimal. No concerns have been raised by the Council's highways consultant and it is not considered that the proposal would have adverse impacts on the highway network.

6.8 **Ecological considerations**

6.8.1 Core Strategy policy CS17 seeks to protect and enhance the diversity, high quality and local character of the natural environment, and to avoid significant adverse impact on environmental assets. Policy CS6 (Sustainable Design and Development Principles) requires that all development protects, restores, conserves or enhances the natural environment. SAMDev Plan policy MD12 requires that developments avoid harm to Shropshire's natural assets.

6.8.2 The application presents the findings of an ecological desktop study and walkover site survey. This concludes that the site is of no significant wildlife value and does not provide suitable habitat for protected species. The turbine would be sited more than 50 metres from the nearest trees. The connection route would be across farm land to the north and then follow the route of an existing track to the farm. The Council's ecologist considers that the siting is acceptable in relation to wildlife features such as woodland and ponds.

6.9 **Planning balance**

6.9.1 There are concerns over the reliability of the LVIA that accompanies the application. This notwithstanding, the proposed turbine would result in some adverse impacts in the local area, particularly on landscape and heritage assets. For some receptors, such as public footpath users and road users, in some locations these are likely to have a significance of moderate or major. Some concerns were raised by the local community at pre-application stage and this resulted in the turbine being re-sited. In respect of the application now submitted, given the lack of public objections there is no evidence of local concerns. It would provide benefits to the farm in terms of the generation of renewable energy and a reduction in the use of non-renewable sources of fuel. It is considered that these benefits outweigh the impacts of the proposal.

However the NPPF, published in 2018, is clear that proposals for wind turbines

6.9.2 should not be considered acceptable unless it is in an area identified as suitable for such development in the Development Plan. Notwithstanding the benefits of the proposed development it is considered that significant weight should be given to this national policy statement. The proposal does not comply with footnote 49 of the NPPF or with SAMDev Plan policy MD8 and therefore it is considered that planning permission should be refused.

7.0 **CONCLUSION**

7.1 The proposal for a single wind turbine at Sandy Lane Farm would provide renewable energy for the farm and would contribute to a reduction in greenhouse gases. There have been no local concerns received. It is considered that the impacts of the proposal on landscape, visual and heritage assets are outweighed by its benefits. Nevertheless the proposal conflicts with recently-issued national policy and with SAMDev Plan policy MD8 and as such it is recommended that planning permission is refused.

8. **Risk Assessment and Opportunities Appraisal**

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above

recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9. Financial Implications

There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS8 - Facilities, Services and Infrastructure Provision
CS13 - Economic Development, Enterprise and Employment
CS17 - Environmental Networks
MD8 - Infrastructure Provision
MD12 - Natural Environment

RELEVANT PLANNING HISTORY:

15/01870/SCR Request for a screening opinion for a single 100kw wind turbine EAN 15th June 2015

18/02645/SCR Proposed single wind turbine EAN 18th July 2018

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr R. Macey
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Local Member Cllr Paul Wynn

Appendices None

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Committee and Date
 North Planning Committee
 5th February 2019

Item
7
 Public

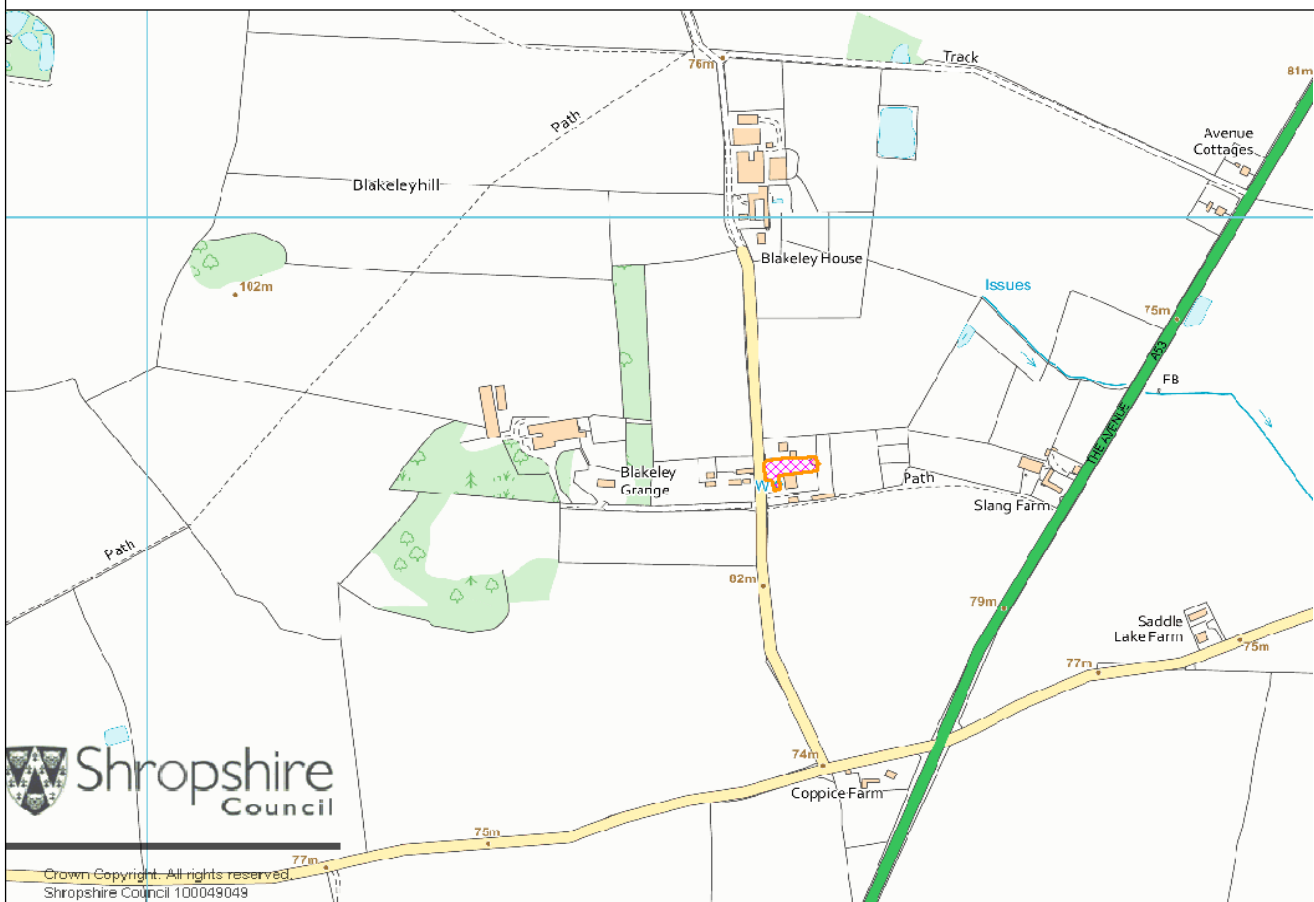
Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 18/03419/FUL	Parish:	Stanton Upon Hine Heath
Proposal: Erection of a local needs affordable disabled access bungalow		
Site Address: Land North of Crinan Blakeley Stanton Upon Hine Heath Shropshire SY4 4ND		
Applicant: Mr S McCormack		
Case Officer: Richard Denison	email: planningdmne@shropshire.gov.uk	

Grid Ref: 358680 - 324720



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Recommendation:- Approval subject to the conditions set out in Appendix 1 and the signing of a Section 106 agreement in order to ensure the dwelling remains as an affordable dwelling in perpetuity.

Recommended Reason for Approval

REPORT

1.0 THE PROPOSAL

1.1 This application relates to the erection of a local needs affordable disabled access bungalow within the hamlet of Blakeley near Stanton upon Hine Heath. The proposed bungalow will provide a long central entrance hallway including wheelchair storage, open plan kitchen/dining/lounge, and utility, master bedroom with accessible shower room, carer's bedroom, small study/guest room, bathroom and accessible w.c. Two new vehicular accesses are proposed to replace the existing access to enable the existing and proposed bungalow to have their own separate access with the provision of parking and manoeuvring space for a minimum of two vehicles.

2.0 SITE LOCATION/DESCRIPTION

2.1 The proposed site forms part of the side garden associated with Crinan (a bungalow) located in the settlement of Blakeley. A bungalow is located directly to the north, whilst two dwellings are located directly opposite the site on the far side of the road to the west. Open fields are located to the east.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council have submitted a view contrary to officers based on material planning reasons which cannot reasonably be overcome by negotiation or the imposition of planning conditions. The Principal Planning Officer in consultation with the committee chairman and the Local Member agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Shropshire Council, Flood and Water Management Team** - No objection subject to safeguarding informatives.

4.1.2 **Shropshire Council, Affordable Housing Officer** - The applicant has demonstrated strong local connections to the administrative area of Stanton Upon Hine Heath Parish Council. After considering his housing needs and personal circumstances I can confirm that the requirements of the Supplementary Planning Document in relation to the 'build your own affordable home scheme' have been satisfied.

- 4.1.2 **Shropshire Council, Tree & Amenity Protection Officer** - No protected or important amenity trees are affected by this proposal and therefore I have no objection on arboreal grounds including the removal of the garden specimens to facilitate the development.
- 4.1.2 **Shropshire Council, Ecology** - This application site meets the trigger point for requiring a bat survey since it may involve development close to, or felling or lopping of, mature trees, or removal of hedgerows. Trees should be assessed in line with the Bat Conservation Trust's Good Practice Guidelines (3rd edition, 2016) by a licensed bat ecologist and, if deemed necessary, activity surveys should be undertaken. There is a mapped pond approximately 200m to the north-east of this site. Any ponds within 250m of a minor planning application should be assessed in terms of their broad suitability to support great crested newts by carrying out a Habitat Suitability Index (HSI) assessment.
- 4.1.3 **Shropshire Council, Highways** - The access to Crinan is existing and adequate as is the proposed parking and turning with the garage. The driveway for Crinan actually bends towards the site of the proposed house and could serve both houses although the proposed access for the proposed dwelling is also adequate. No Objection is raised subject to the development being carried out in accordance with the approved details and provision of safeguarding conditions.
- 4.1.5 **Stanton-upon-Hine Heath Parish Council (05/09/18)** objects to this application on the following grounds: The proposed dwelling is far too big for the site, close proximity to adjoining properties, loss of light, privacy and sunlight would be severely affected to these adjoining properties and the site plan is incorrect in that it omits previous additions to Oakdene giving a false impression of space.
- 4.2 **Stanton-upon-Hine Heath Parish Council (09/01/19)** - Objects to this application on the following grounds; The proposed dwelling is far too big for the site, close proximity to adjoining properties, loss of light, privacy and sunlight would be severely affected to these adjoining properties and the site plan is incorrect in that it omits previous additions to Oakdene giving a false impression of space. Also the Parish Council could not find any reference to the amendments to comment on from the Shropshire Council website.
- 4.2 **Public Comments**
- 4.2.1 Three letters of objection have been received one from a previous owner of the adjoining bungalow Fernlea and one from the existing occupier of Fernlea, together with comments from an architects practice on behalf of the occupiers of Fernlea. The objections are summarised as follows:-
- Cramped development akin to urban housing estate.
 - Site layout plan is incorrect and omits electric pole, sandstone well and pipeline which would run under the proposed building.
 - Garage is on a steep bank which would necessitate earth moving.
 - Loss of sunlight.
 - Overlooking and loss of privacy.
 - Impact on loss of trees and ecology.

- No need for wheelchair accessible dwelling.
- Impact on outlook.
- Inadequate drainage.
- Devaluation of property value.
- Existing rear shed would appear to be within curtilage of proposed dwelling and therefore existing dwelling would need storage.

4.2.2 A letter has been received from the Resettlement and Community Liaison Officer from the Robert Jones & Agnes Hunt Orthopaedic Hospital who co-ordinates care packages and equipment for the discharge of complex spinal patients. The applicant has sustained a cervical spinal injury many years ago and is a permanent wheelchair user and lives at home with a 24 hours care package. A high tetraplegia requires ample storage space to accommodate all of the necessary equipment and supplies. The proposed dwelling will need to provide adequate storage space for medical supplies, equipment and space for three wheelchairs, shower chair and a manual portable hoist.

5.0 THE MAIN ISSUES

- Background
- Policy & Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- Impact on Trees
- Ecology
- Drainage
- Other Matters

6.0 OFFICER APPRAISAL

6.1 Background

6.1.1 This application relates to the erection of a local needs affordable disabled access bungalow within the hamlet of Blakeley near Stanton upon Hine Heath. The applicant has sustained a cervical spinal cord injury and as a result is tetraplegic and has suffered from periods of ill health which requires 24 hour care and currently has carers living with him.

6.1.2 Comments have been made that the existing bungalow currently provides the necessary accommodation and could be enlarged or altered to provide improved accommodation. Whilst it has also been commented that suitable accommodation has come on the market and is available locally without the need to build a new isolated property.

6.1.3 Unfortunately, the applicant is required to sell his current home to complete a financial settlement owed to his ex-wife. After the sale of his current home he will have insufficient funds to purchase an alternative property to meet his care needs. There are no suitable properties within the local area and the only option he has to retain part of the side garden and develop a purpose built local needs wheel chair

accessible bungalow.

6.1.4 The site is located in Blakeley which is a typical rural settlement and consists of a number of dwellings including Blakeley Grange and Blakeley Stud. Although there are no facilities within Blakeley, although there is a public house, church and village hall 1.6km to the west of the site at Stanton Upon Hine Heath.

6.2 Policy & Principle of Development

6.2.1 The Housing Supplementary Planning Document (SPD) and policy CS11 'Type and Affordability of Housing' of the Core Strategy provides a positive support framework for the consideration of single plot exception sites in open countryside subject to a number of criteria including location, size of dwelling and local housing need.

6.2.2 The size of the proposed dwellings are normally restricted to 100 square metres floor area and the location is considered acceptable as it is located within the loose knit settlement of Blakeley close to Stanton Upon Hine Heath where a number of local facilities are provided including a public house, church and village hall. Pre-application discussions have taken place between officers and the Housing Enabling Team who have supported the location.

6.2.3 The applicant has provided supporting information in relation to the housing need and strong local connection which has been verified by the Housing Enabling Team as follows:-

- Mr McCormack has demonstrated strong local connections to the administrative area of Stanton Upon Hine Heath Parish Council. After considering his housing needs and personal circumstances the requirements of the Supplementary Planning Document in relation to the 'build your own affordable home scheme' have been satisfied.
- The Local Housing Need elements of this application were established as follows from information presented by the applicant in March 2018.
- Mr McCormack intends to construct an affordable dwelling at the above site to occupy as his long-term home. This dwelling will be subject to a Section 106 Agreement prescribing local occupancy criteria, restricting the potential size and limiting any future sale value.
- Due to a change in circumstances Mr McCormack needs to sell his current home within the parish. After the sale of his current home he will have insufficient funds to purchase an alternative property to meet his care needs, because of this he is deemed to be in housing need.
- Mr McCormack has lived within the parish for over 30 years. Mr McCormack has had periods of significantly poor health and is tetraplegic after a road accident. He requires the support of carers on a 24-hour basis and space is required for his carers to sleep over to provide a high level of support. His current home does need some general updating.

- Stanton Upon Hine Heath Parish Council has confirmed that Mr McCormack has local connections in our parish.
- Mr McCormack very much feel the parish is his home and has developed a network of friends and neighbours locally over the years. He also relies on the medical care provided by Hodnet Medical Practice.
- Mr McCormack has therefore demonstrated housing need, strong local connections and a need to live in the local area. Due to a lack of suitable alternative accommodation to meet his current and future need he is unable to satisfy his quite specific housing requirements without assistance from this scheme.
- Reference should also be made to the letter received from Mrs Barbie Simmons NHS Resettlement and Community Liaison Team in relation to Mr McCormack's needs and how those with high tetraplegia require ample storage and space for equipment and supplies.

6.2.4 The applicant has demonstrated a strong local connection to the local area and is unable to meet their housing needs in the local open market without the assistance of this policy. They have a long standing personal and family connection to the local area. A Section 106 planning obligation will be required to ensure the dwelling remains affordable in perpetuity.

6.2.5 In view of the above it is considered that the principle and personal circumstances of the applicant and the size and location of the proposed dwelling is acceptable and in compliance with the terms of the policy subject to a Section 106 legal agreement.

6.3 **Design, Scale and Character**

6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.

6.3.2 The proposed plot is approximately 0.875ha and has a site frontage of 17.6 metres, whilst the dwelling will have a width of 10 metres and will be positioned equally between the two adjoining bungalows which have plot widths of 22.6 metres. Although the proposed plot is slightly narrow by 5 metres this is not considered restrictive and the narrower bungalow will sit comfortably within the plot and street scene.

6.3.3 The size of a local needs affordable dwellings are normally restricted to 100sqm gross internal floor area, although in special circumstances policy guidance allows for larger properties such as when specialist wheel chair provision may increase the room sizes for accessibility purposes. Amended plans have been submitted to reduce the depth of the bungalow by 1.8 metres which has resulted in the property

having an internal gross floor area of 137sqm. The applicant has very specialist care which includes providing accommodation for a living in carer, together with requiring all rooms to be wheel chair accessible and storage for three specialist wheel chairs and a storage for a manual portable hoist. The level of accommodation is not excessive having regard to the personal requirements of the applicant.

6.3.4 The bungalow will be constructed from traditional brick with tiled roof to match the adjoining bungalows, whilst the lower front gable section of the bungalow will include vertical larch timber cladding which will match the adjacent carport. Solar panels are located on the southern side of the roof which will not directly face the roadside.

6.3.5 The proposed dwelling would appear modest in scale and would reflect the design and appearance of the adjoining bungalows and would not cause any detrimental impact on the character of the local area.

6.4 **Impact on Residential Amenity**

6.4.1 Policy CS6 ‘Sustainable Design and Development Principles’ of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. Concerns have been raised from the occupiers of the adjoining bungalow Fernlea regarding and loss of privacy and loss of sunlight.

6.4.2 The front elevation of the proposed bungalow will be positioned 25 metres away from the dwellings on the opposite side of the road, whilst the north elevation will be positioned 5 metres from the rear corner and 5.5 metres from the front corner of Fernlea and the south elevation will be 5 metres from the side elevation of applicants existing dwelling Crinan. A utility door, study/guest room window and obscure glazed bathroom window are proposed on the north elevation and will face a Leylandii hedge. This hedgerow does provide a degree of screening, although the study/guest room will face the blank wall of Fernlea. A bedroom, lounge and obscure glazed wet room and w.c. windows are proposed on the south elevation and will face a new wooden fence. Having regard to the existing and proposed boundary screening the bungalow will not result in any significant detrimental overlooking or loss of privacy.

6.4.3 The bungalow will have an eaves height of 2.2 metres with a small section of the front having a reduced ridge height of 4.5 metres, whilst the main ridge height which is central to the plot will be 5.6 metres. The proposed bungalow will be sited in line with the adjacent bungalows either side and will be separated by a carport, blank wall and shed of Fernlea along the northern boundary. A lounge window in this bungalow is located on the side elevation which has a view through the car port to the boundary hedge and is 10 metres away from the side elevation of the proposed bungalow. This lounge also has a front facing window, full height sliding patio door and door entrance. Fernlea has a similar height eaves and ridge height of approximately 5.5 metres and is not too dissimilar to the proposed bungalow. There is a slight height difference of the proposed plot which is approximately 0.3 metres higher than Fernlea. Having regard to the orientation and scale it is not considered that the proposed bungalow would result in significant overbearing impact or loss of light.

6.4.4 The movement of vehicles from this single household will not cause any significant increase in noise and disturbance

6.5 Highways

6.5.1 Policy CS6 ‘Sustainable Design and Development Principles’ of the Shropshire Core Strategy indicates that development should be designed to be safe and accessible to all. The proposed development will provide two new vehicular accesses which replace the existing access. This will enable the provision of the existing and proposed bungalow to have their own independent access each. Amended plans have been received to remove the previously proposed double garage from the front garden of the existing bungalow with both properties being provided with large driveways which will accommodate easily 3 to 4 vehicles each with a turning area. The road is relatively straight with a grass verge and good visibility will be provided in both directions from both new accesses. The Highways Authority have raised no objection subject to safeguarding conditions.

6.6 Impact on Trees

6.6.1 Policy CS17 ‘Environmental Networks’ of the Shropshire Core Strategy indicates that development should protect and enhance the local natural environment. Concerns have been raised regarding the loss of trees within the existing side garden to facilitate the dwelling and driveway. However, these trees are not protected or within a Conservation Area, whilst the Tree & Amenity Protection Officer has indicated they are not important amenity trees and no objection is raised on arboreal ground regarding the removal of garden specimen trees.

6.7 Ecology

6.7.1 Policy CS17 ‘Environmental Networks’ of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire’s environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environment and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in policy 11 ‘Conserving and Enhancing the Natural Environment’ of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.

6.7.2 The Planning Ecologist has indicated that as trees are being removed advice should be sought as to whether bat activity surveys should be undertaken, whilst there is a mapped pond within 200 metres of the site and an assessment should be made in terms of whether the site is suitable to support Great Crested Newts by carrying out a Habitat Suitability Index assessment.

6.7.3 A detailed Ecological Appraisal has been undertaken which has indicated that there are no designated ecology sites found within the vicinity of the site. The nearest site is Hodnet Heath SSSI which is 3.4km away and due to the distance there is no

negative impact expected. The site comprises of a driveway and well-maintained garden supporting trees of low ecological value and none have any potential for roosting bats. There is one pond within 250 metres of the site to the north east and separated by agricultural fields. The land owner has confirmed that this has been dry for many years and the risk assessment has indicated that an offence is highly unlikely to occur. Therefore, the development will have no negative impact on Great Crested Newts.

- 6.7.4 To provide ecological enhancement it is recommended that opportunities are provided for roosting opportunities for bats and nesting facilities for birds, whilst a detailed methodology for the removal of the domestic trees and roadside hedgerow are proposed and can be conditioned accordingly.

6.8 **Drainage**

- 6.8.1 Policy CS18 ‘Sustainable Water Management’ of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity. The application indicates that foul drainage will be dealt with via a package treatment plant and no objection has been raised by the Drainage Engineer subject to the design being in accordance with Building Regulations. The application indicates that surface water will be disposed of via soakaways and the Drainage Engineer has indicated that percolation test and soakaways should be designed in accordance with BRE Digest 365. No concerns have been raised regarding the suitability of the local ground conditions and therefore it is recommended that both the foul and surface water drainage are conditioned accordingly for details to be submitted and approved prior to the commencement of works on site.

6.9 **Other Matters**

- 6.9.1 Concerns have been raised regarding the devaluation of the neighbour’s property, although this is not a material planning consideration. Concerns have also raised regarding the impact on outlook and view from the side lounge window which looks through the carport. The window is located 10 metres from the front corner of the proposed bungalow and any outlook or view would be partially obstructed when vehicles are parked in the carport and by the boundary hedgerow. This is a secondary window to the lounge and whilst the loss of view is not a material planning consideration it is not considered that the proposed dwelling would not be significantly detrimental to the views and outlook from the lounge as a whole.

7.0 **CONCLUSION**

- 7.1 The applicant has demonstrated that he is in local housing need, and the size and location of the proposed dwelling is considered to be acceptable and in compliance with the terms of the policy. The design and appearance of the proposed dwelling is acceptable and would not impact on this rural location or have any adverse impact on residential amenity or highway safety. The application would be subject to a S106 legal agreement to secure the use of the bungalow as a single plot exception site.

7.2 In arriving at this decision the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

- 9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10.0 BACKGROUND

10.1 Relevant Planning Policies

Policies material to the determination of the Application. In determining this application the Local Planning Authority gave consideration to the following policies:-

National Planning Policy Framework (March 2012):

Shropshire Council Core Strategy (February 2011):

CS5 : Countryside and Green Belt

CS6 : Sustainable Design and Development Principles

CS11 : Type and Affordability of Housing

CS18 : Sustainable Water Management

Supplementary Planning Document (SPD) on the Type and Affordability of Housing

Site Allocations and Management Development Plan (December 2016):

MD2 : Sustainable Design

MD7a Managing Housing Development in the Countryside

MD12 : Natural Environment

10.2 Relevant Planning History

There is no relevant planning history.

11.0 ADDITIONAL INFORMATION

List of Background Papers - Application reference 18/03419/FUL

Cabinet Member (Portfolio Holder) - Cllr Robert Macey

Local Member - Cllr Karen Calder

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
Reason: To ensure that the external appearance of the development is satisfactory.
4. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved block plan drawing no. SM_002 Rev.F dated 10th December 2018 prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.
Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety.
5. The new affordable dwelling hereby permitted shall be constructed to a minimum of an equivalent to the Code for Sustainable Homes level 3, for energy and water efficiency.
Reason: To ensure the dwelling is constructed with a view to reducing its carbon footprint.

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

6. The dwelling hereby permitted, shall not exceed 137sqm gross internal floor area, including any future extensions. No further internal habitable space shall be created within the dwelling by internal alterations.
Reason: To ensure that the dwelling is of a size appropriate to the local affordable housing market.
7. Notwithstanding the provisions of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order modifying, revoking or re-enacting that Order), no garage, carport, extension or other building shall be erected within the curtilage of the dwelling hereby permitted without the prior consent in writing of the Local Planning Authority.
Reason: To enable the Local Planning Authority to retain control of the siting and external appearance of any buildings to be erected in the interest of visual amenity and to maintain the future affordability of the dwelling.



Committee and Date
 North Planning Committee
 5th February 2019

Item
8
 Public

Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

SCHEDULE OF APPEALS AS AT COMMITTEE 5th February 2019

Appeals Lodged

LPA reference	18/00224/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Redbank Construction Limited – C/O Mark Blood Building Design
Proposal	Erection of 2 no detached dwellings
Location	Proposed Residential Development Land South Of Sunnyside Red Bank Road Market Drayton Shropshire
Date of appeal	30.11.18
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	18/01804/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Newton C/O Peter Richards
Proposal	Outline application for 1no. residential dwelling to include access, following the demolition of an existing building
Location	Proposed Dwelling North Of Glencott Longslow Market Drayton Shropshire
Date of appeal	30.11.18
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	18/01922/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr M Jones- C/O ARH Architectural Design
Proposal	Erection of double garage with workshop and office
Location	11 Brooklands Chester Road Whitchurch Shropshire
Date of appeal	30.11.18
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	18/00259/PMBPA
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Jason Scott
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Barns Adjacent Northwood House Farm Fauls Whitchurch Shropshire
Date of appeal	17.01.19
Appeal method	Written Representations
Date site visit	
Date of appeal decision	

Costs awarded	
Appeal decision	

LPA reference	18/00258/PMBPA
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Jason Scott
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Barns Adjacent Northwood House Farm Fauls Whitchurch Shropshire
Date of appeal	17.01.19
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	18/03725/out
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Dvaies – C/O Berrys
Proposal	Outline application for a single dwelling (all matters reserved)
Location	Land At Weston Common Weston Lullingfields Shropshire
Date of appeal	23.01.19
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	18/03422/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr S Gaddoura
Proposal	Outline application (all matters reserved) for the provision of three holiday chalets
Location	Summerhill, Trefonen Oswestry

Date of appeal	20.01.2019
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	18/01424/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Muckleton Developments – C/O K C Humpherson
Proposal	Erection of 1No dwelling and garage
Location	Proposed Dwelling To The South Of Hazles Road Shawbury Shropshire
Date of appeal	16.10.18
Appeal method	Written Representation
Date site visit	
Date of appeal decision	22.01.19
Costs awarded	
Appeal decision	DISMISSED



Appeal Decision

Site visit made on 11 December 2018

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2019

Appeal Ref: APP/L3245/W/18/3206298

Land at New House Farm, Hazles Road, Shawbury, Shropshire SY4 4HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Muckleton Developments against the decision of Shropshire Council.
 - The application Ref 18/01424/FUL, dated 23 March 2018, was refused by notice dated 24 May 2018.
 - The development proposed is erection of detached property with garage for residential use.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On 24 July 2018 the Government published its revised National Planning Policy Framework (the Framework). The revised Framework is applicable to planning decisions from the date of publication and sets out the Government's planning policies for England. It is therefore a material consideration in the determination of this appeal. The main parties have been consulted on the revised Framework and in reaching my decision I have had regard to it where relevant and to any responses received from the main parties.

Main Issues

3. The main issues are:
 - whether the appeal site is a suitable location for a dwelling having regard to local and national planning policy;
 - the effect of the proposal on the character and appearance of the area including on the existing farmstead at New House Farm.

Reasons

Principle of development

4. The appeal site comprises a piece of open, undeveloped land positioned towards the rear of a small complex of buildings located in an isolated rural location. It is located in the countryside, outside of any defined settlement.

5. Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (CS) and Policy MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan December 2015 (SAMDev) relate to new development in the countryside, allowing for some forms of residential development. However the proposal does not fall within any of the permitted categories of residential development within policies CS5 and MD7a and consequently it would be contrary to these policies. I am satisfied that these policies and others referred to by the Council in relation to the principle of the development are consistent with the Framework when taken as a whole.
6. No evidence has been put forward by the appellant to dispute the fact that the proposal is contrary to policies CS5 and MD7a and I have seen no evidence to suggest that settlement housing guidelines are not being met in the area as referred to in SAMDev Policy MD3.
7. Whilst the appeal site is located near to a small number of dwellings on the farmstead, it is nevertheless isolated from services and facilities. The fact that the proposal is for a single dwelling, that permission has already been granted to convert two barns to open market dwellings on the farmstead and that there would be one less building on the farmstead following the proposal does not justify the proposal or overcome the harm that would result from the provision of a new dwelling in an isolated countryside location.
8. Taking the above matters into consideration, I conclude that the site is not a suitable location for housing having regard to local and national planning policy and the proposal is contrary to CS policies CS1, CS4, CS5 and CS6, SAMDev policies MD1, MD3 and MD7a and to relevant paragraphs of the Framework. As stated, these policies seek amongst other things, to control residential development and to restrict such development in rural locations with poor access to services and facilities. Though the Council's first reason for refusal also referred to CS policies CS9, CS11 and CS17 and SAMDev policies MD12 and S17, these policies do not appear to be directly relevant to the principle of the development.

Character and appearance

9. As stated, the appeal site is positioned on undeveloped land towards the rear of the existing farmstead at New House Farm. The farmstead comprises the original farmhouse, two traditional former barns which have been converted to dwellings and a more modern agricultural building to the rear of the traditional buildings. All of the traditional buildings have pitched roofs and are largely constructed from red brick, with some elements of timber cladding on some buildings. The surrounding area is agricultural in character.
10. The Council considers the existing farmstead to be a non-designated heritage asset and I agree with the Council having regard to the age, form and rural setting of the buildings all of which contribute to the significance of the asset. Paragraph 197 of the Framework sets out the approach when dealing with non-designated heritage assets requiring the decision maker to make a balanced judgement having regard to the scale of any harm or loss and the significance of the asset.
11. The proposal would result in the loss of an open piece of land close to the existing farmstead and would introduce new built form of a reasonably

significant scale. In addition the design of the proposed dwelling is not reflective of the traditional design of the existing vernacular buildings on the farmstead. In particular the proposed mansard roof and extensive use of timber cladding would be out of keeping and harmful to the setting of nearby buildings and the character and appearance of the area. The proposal would introduce additional built development into the countryside in an existing undeveloped area thereby reducing openness and the open and flat topography of the surrounding area means that the proposed dwelling would be visible from the road and from wider public views.

12. I acknowledge that it appears that in recent years the appellant has successfully refurbished the existing traditional buildings on the site and has brought them back into use. However whilst I note that the appellant intends to provide a high quality development and that there are some existing elements of timber cladding within the farmstead, this does not overcome the harm to character and appearance that would result from the proposal.
13. Taking the above matters into consideration, I conclude that the proposal would have a significant adverse effect on the character and appearance of the area including a harmful effect on the non-designated heritage asset. It is therefore contrary to policies CS5, CS6 and CS17 of the CS, policies MD2 and MD13 of the SAMDev and to relevant paragraphs of the Framework. These policies seek, amongst other things, high quality development which maintains countryside character and protects the historic environment and to protect non-designated heritage assets.

Other Matters

14. In reaching its decision the Council also considered that insufficient information was submitted with the application regarding access and drainage.
15. It is proposed that the dwelling would utilise the existing access off Hazles Road which is currently used for the existing buildings on the farmstead. However the application site edged red does not include all of the existing access which is also outside of the land edged blue. As the existing access and driveway appear to be private and not adopted by the Highway Authority, details of access onto the road would need to form part of the application. In the absence of this, adequate vehicular access to the site cannot be demonstrated and I note that additional information was requested by the Highway Authority.
16. No details of foul sewage were submitted with the application with the application form stating that surface water is to be disposed of by soakaways. The Council's drainage advisors did not object to the application, instead stating that preference should be given to drainage measures which allow rainwater to soakaway naturally. I have seen no evidence of any flooding or drainage problems in the area and having regard to this, to the greenfield location and modest scale of the proposal and to the fact that soakaways are proposed, I consider that were I allowing the appeal, this matter could be adequately dealt with by the imposition of a suitably worded condition.
17. The proposal would provide an additional dwelling. Though it would provide some economic and social benefits and would contribute to the areas housing supply, these benefits would be limited given that only one dwelling is proposed and would not outweigh the harm that I have identified.

Conclusion

18. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR