



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

Date: Monday, 11 November 2019

**Committee:**  
**Southern Planning Committee**

**Date:** Tuesday, 19 November 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  
Director of Legal and Democratic Services (Monitoring Officer)

**Members of the Committee**

David Evans (Chairman)  
David Turner (Vice-Chair)  
Andy Boddington  
Simon Harris  
Nick Hignett  
Richard Huffer  
Cecilia Motley  
Tony Parsons  
Madge Shingleton  
Robert Tindall  
Tina Woodward

**Substitute Members of the Committee**

Roger Evans  
Nigel Hartin  
Christian Lea  
Elliott Lynch  
Dan Morris  
Kevin Pardy  
William Parr  
Kevin Turley  
Claire Wild  
Leslie Winwood  
Michael Wood

Your Committee Officer is:

**Linda Jeavons**      Committee Officer  
Tel:                    01743 257716  
Email:                [linda.jeavons@shropshire.gov.uk](mailto:linda.jeavons@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive any apologies for absence.

## 2 Minutes (Pages 1 - 4)

To confirm the minutes of the South Planning Committee meeting held on 22 October 2019.

Contact Linda Jeavons (01743) 257716.

## 3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is no later than 2.00 pm on Friday, 15 November 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 Agricultural Workers Dwelling East of Welbatch Farm, Hookagate, Shrewsbury, Shropshire (19/02641/REM) (Pages 5 - 18)

Approval of reserved matters (appearance, landscaping, layout and scale) pursuant of 18/00273/OUT for the erection of an agricultural need dwelling and garage to include access.

## 6 Proposed Development Land At Former Bus Depot, Minsterley, Shrewsbury, Shropshire (19/03734/OUT) (Pages 19 - 36)

Outline application (access for consideration) for mixed use development of residential and business units.

## 7 Hysbatch, Ticklerton, Church Stretton, Shropshire, SY6 7DQ (19/03983/FUL) (Pages 37 - 48)

Conversion and extension of domestic garage to form separate dwelling.

## 8 Schedule of Appeals and Appeal Decisions (Pages 49 - 64)

## 9 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 17 December 2019, in the Shrewsbury Room, Shirehall.



## Committee and Date

Southern Planning Committee

19 November 2019

## **SOUTHERN PLANNING COMMITTEE**

### **Minutes of the meeting held on 22 October 2019**

**2.00 - 3.38 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND**

**Responsible Officer:** Linda Jeavons

Email: linda.jeavons@shropshire.gov.uk Tel: 01743 257716

### **Present**

Councillor David Evans (Chairman)

Councillors David Turner (Vice-Chair), Andy Boddington, Simon Harris, Nick Hignett, Richard Huffer, Cecilia Motley, Tony Parsons, Madge Shingleton, Tina Woodward and Michael Wood (Substitute) (substitute for Robert Tindall)

### **49 Apologies for Absence**

An apology for absence was received from Councillor Robert Tindall (Substitute: Michael Wood).

### **50 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the Southern Planning Committee held on 24 September 2019 be approved as a correct record and signed by the Chairman.

That the Minutes of the meeting of the Central Planning Committee held on 29 August 2019 be approved as a correct record and signed by the Chairman.

### **51 Public Question Time**

There were no public questions or petitions received.

### **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.

With reference to planning application 18/04261/OUT, Councillor Cecilia Motley declared that she was a member of The Shropshire Hills AONB Partnership and The Shropshire Hills AONB Strategy and Performance Committee. She confirmed that she had taken no part in any discussion relating to this application.

With reference to planning application 18/04261/OUT, Councillor David Turner declared that he was a member of The Shropshire Hills AONB Partnership and The Shropshire Hills AONB Strategy and Performance Committee. He confirmed that he had taken no part in any discussion relating to this application.

**53 Land east of Pennerley House, Pennerley, Shrewsbury, Shropshire, SY5 0NE (18/04261/OUT)**

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit that morning and had viewed the site that morning and had assessed the impact of a proposal on the surrounding area.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting.

Dr D Poynton, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor J Soper, representing Worthen with Shelve Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Heather Kidd, local Ward Councillor, made a statement and then left the room, took no part in the debate and did not vote on this item. During her statement, the following points were raised:

- The Rural Housing Policy had not served her division at all well;
- There was a significant housing need in her division but no provision. All new houses in this Ward were 4, 5 and 6 bed roomed houses;
- Everyone wanted housing for local people which in turn would help to keep local communities viable and sustainable and also help to ensure local schools remained open;
- This proposal was for monetary gain;
- The meadows were home to Curlews and we had to consider the impact of development on the natural environment; and
- Current planning policy was not fit for purpose – it delivers the wrong sort of housing.

Mr N Williams, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers and it was,

**RESOLVED:**

That, contrary to the Officer's recommendation, planning permission be refused for the following reasons:

It is acknowledged that Pennerley is part of a Community Cluster in the adopted Site Allocations and Management of Development (SAMDev) Plan, under which infill development on suitable sites would normally be permitted. However, because of the loose scatter of existing development which is a strong characteristic of this settlement, within the Area of Outstanding Natural Beauty, it is considered that the proposal would not in this case be appropriate, because it would erode the distinct character of the settlement and its environs, by a resulting density and pattern of development that is inconsistent with the local context and character. Approval of the application for an open market dwelling would result in a disproportionate concentration of existing dwellings together with an extant planning permission for a dwelling in this part of Pennerley, eroding the loose scatter of development. The proposal, as infill, would therefore not be appropriate in this particular site context. The proposed development would therefore be contrary to Shropshire Core Strategy policies CS4, CS6 and CS17; Site Allocations and Management of Development (SAMDev) Plan policies MD2 and MD12 and paragraphs 127, 170 and 172 of the National Planning Policy Framework (NPPF): It would not satisfy the environmental objective of sustainable development set out in the NPPF.

**54 Cressage Men's Club, Sheinton Road, Cressage, Shrewsbury SY5 6BY (19/03422/FUL)**

The Consultant Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit that morning and had viewed the site that morning and had assessed the impact of a proposal on the surrounding area.

Councillor D Quenby, representing Cressage Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers.

**RESOLVED:**

That, as per the Officer's recommendation, planning permission be granted, subject to the conditions as set out in Appendix 1 to the report and subject to the following additional conditions:

- That prior to the coming into use of the decked area, details of the CCTV, including details of the camera, mounting and its location shall be submitted to and approved in writing by the Local Planning Authority, and thereafter implemented; and

- The decked area hereby approved shall not be used between 9.00pm and 9.00am the following day and the gate shall be locked at all times during these hours and when the decking is not in use by Members of the Cressage Men’s Club and their guests.

**55 Schedule of Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the southern area as at 22 October 2019 be noted.

**56 Exclusion of Press and Public**

**RESOLVED:**

That under Section 100(A)(A4) of the Local Government Act 1972, the public be excluded during the consideration of the following item of business on the grounds that it might involve the likely disclosure of exempt information as defined in Schedule 12(A) of the Act.

**57 Planning Enforcement Quarterly Report**

**RESOLVED:**

That the Planning Enforcement Quarterly Report as at 22 October 2019 be noted.

**58 Date of the Next Meeting**

**RESOLVED:**

That it be noted that the next meeting of the Southern Planning Committee will be held at 2.00 pm on Tuesday, 19 November 2019 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed ..... (Chairman)

Date: .....



Committee and date

South Planning Committee

19 November 2019

## Development Management Report

Responsible Officer: Tim Rogers  
 email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 19/02641/REM	<b>Parish:</b>	Longden
<b>Proposal:</b> Approval of reserved matters (appearance, landscaping, layout and scale) pursuant of 18/00273/OUT for the erection of an agricultural need dwelling and garage to include access		
<b>Site Address:</b> Proposed Agricultural Workers Dwelling East Of Welbatch Farm Hookagate Shrewsbury Shropshire		
<b>Applicant:</b> Mr And Mrs Kent		
<b>Case Officer:</b> Kelvin Hall	<b>email:</b> planning.southern@shropshire.gov.uk	

**Grid Ref:** 346109 - 308821



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**Recommendation:- Refuse**

## Recommended Reason for refusal

1. The house would be an 'additional' agricultural workers dwelling given that there is already a farmhouse at the main farm complex. As such, under the terms of the Section 106 agreement associated with the outline planning permission and in line with planning policy, the dwelling would need to be offered as an affordable dwelling if it were no longer required to house an agricultural worker. The floorspace of the house would be 127m<sup>2</sup> which is significantly larger than the 100m<sup>2</sup> which is the normal maximum size for affordable dwellings. Officers do not consider that the justification put forward for a dwelling of this size is sufficient to outweigh the Council's policy guidance. As such the proposal is contrary to Core Strategy policy CS11, SAMDev Plan policy MD7a and the adopted Type and Affordability of Housing SPD.
2. The proposed layout of the development, with a double garage and log store being positioned less than one metre from the main house, would result in a development which is perceived from public viewpoints as one unit which is excessively large in its rural context, and which would adversely impact on the rural character of the area. The proposal would therefore be contrary to Core Strategy policy CS6, CS17 and SAMDev Plan policy MD2.

**REPORT****1.0 THE PROPOSAL**

- 1.1 The application is for approval of reserved matters relating to an outline planning permission for the erection of an agricultural workers dwelling (ref. 18/00273/OUT). The application seeks approval of access, appearance, landscaping, layout and scale.
- 1.2 The application proposes a two storey house with attached single storey boot room/utility and shower room. It would measure approximately 14 metres wide x 6.5 metres deep. It would have a pitched roof measures approximately 8.1 metres to ridge and 5 metres to eaves. The attached boot room/utility would measure 5 metres to ridge. The footprint of the house, including open-sided front porch and open-sided covered space outside of the boot room/utility would be approximately 96m<sup>2</sup>. The gross internal floor area would be 127.3m<sup>2</sup>. This would include 22.3m<sup>2</sup> described as agricultural floor area, with the remainder, 105m<sup>2</sup>, comprising the main living accommodation. The ground floor accommodation would include a lounge/dining room, kitchen, hall, agricultural office, agricultural boot room/utility, and agricultural shower room. First floor accommodation would include three double bedrooms, one with en-suite and a walk-in wardrobe; and a bathroom.
- 1.3 There would be a detached double garage with covered log store positioned approximately 0.75 metre from the house. The log store would be open sided. The building would measure 8.4 metres wide x 6 metres deep, with a footprint of 50.4m<sup>2</sup>. It would have a pitched roof with ridge height of 5 metres and an eaves height of approximately 2.6 metres. It would be of brick and tile construction. There would be additional storage space in the roof. This would be accessed via a hatch in the garage ceiling. There would be two small velux style windows in the rear elevation of the roof.

## **2.0 SITE LOCATION/DESCRIPTION**

2.1 The site is located approximately 200 metres to the south-west of the southern boundary of the village of Hookagate, and approximately 125 metres to the east of the nearest farm buildings of Welbatch Farm. The site is approximately 0.1 hectares in size and is situated at the corner of an agricultural field which slopes upwards to the east. Surrounding land is in agricultural use. The north-western side of the site is bounded by the public highway (Longden Road) and the south-western boundary by an agricultural track from which the house would be accessed. A public footpath runs along part of this agricultural track. Welbatch Farmhouse and an L-shaped range of traditional farm buildings are Grade II listed.

## **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The Local Member has requested that the application is referred to Planning Committee for a decision. The Planning Services Manager in consultation with the Committee Chairman considers that the reasons for this request are based on material planning reasons and that it is appropriate for a decision to be made by Planning Committee.

## **4.0 COMMUNITY REPRESENTATIONS**

### **4.1 Consultee Comments**

4.1.1 **Longden Parish Council** Have advised that they are in support of the application and have no comments to make on it.

4.1.2 **SC Conservation** Recommends conditions. This Reserved Matters application follows on from the granting of planning permission under 18/00273/OUT for an agricultural need dwelling and detached garage where I would refer you to our earlier comments for background. The block plan submitted when compared to the earlier concept site plan shows a somewhat larger dwelling with an added single storey side range and what appears to be a somewhat larger 2 bay garage with extra ground floor utility area. On heritage grounds however there is generally no objection raised on the positioning of the buildings. The design is also generally reflective of a vernacular rural dwelling of brick and the elevation drawings indicate brick corbel detailing, stone sills and brick headers, with the building overall being constructed in brick as is the garage. We would recommend that all external materials are conditioned for final approval relevant to both buildings to ensure appropriateness within the rural context of the site. While flush upvc casements are indicated on the drawings, traditional timber casements would be preferred along with timber front doors and timber garage doors, with the garage door details being of a design that also fits the rural context of the site (avoiding a suburban type detail). The simple grass garden and gravel drive is fine with post and rail fencing as the boundary with hedging to the front and this should be confirmed with a landscape plan condition if necessary. Recommended conditions include CC1 (external materials) and a window and door condition similar to JJ20.

4.1.3 **SC Highways** No objection. The application site was the subject of outline planning application 18/00273/OUT for an agricultural workers dwelling which was approved on 15th March 2019. It is considered that the reserved matters details submitted for landscaping, layout and scale are acceptable from a highways

perspective. It is recommended that a condition is added to require that the development is not brought into use until the parking and turning areas have been properly laid out, hard surfaced and drained.

4.1.4 **SC Drainage** No proposed drainage details have been provided. The proposed drainage details, plan and calculations should be submitted for approval before the development commences as per Drainage Condition 5 on Outline Application 18/00273/OUT.

4.1.5 **SC Housing Enabling and Development team** Objects.

This proposal relates to the provision of an 'additional' dwelling to provide further accommodation to support the enterprise at Welbatch Farm. The provision of an additional enterprise dwellings are required to revert to an affordable dwelling if they are no longer required to support the enterprise. Policy MD7a: Managing Housing Development in the Countryside outlines the policy requirements, as such:

"Dwellings to house essential rural workers will be permitted if:

"c. in the case of an additional dwelling to provide further accommodation for a worker who is required to be present at the enterprise for the majority of the time, a functional need is demonstrated and the dwelling is treated as affordable housing, including size restrictions. If a new dwelling is permitted and subsequently no longer required as an essential rural workers' dwelling, it will be made available as an affordable dwelling, unless it can be demonstrated that it would not be suitable."

In response to the supplementary justification statement provided in support of application reference 19/02641/REM, by the applicants/agent:-

Reference to previously approved cases

1. 18/00381 – Agrees that additional space above 100sq. metres will be assessed on a case by case basis. This dwelling was permitted at 101 sq. metres therefore consistent with planning policy.
2. 17/02022/REM – Housing enabling comments "Outline planning permission was granted on the basis that additional housing was required to support the rural enterprise and as such, SAMdev MD7a provides that " in the case of an additional dwelling to provide further accommodation for a worker who is required to be present at the enterprise for the majority of the time, a functional need is demonstrated and the dwelling is treated as affordable housing, including size restrictions. If a new dwelling is permitted and subsequently no longer required as an essential rural workers dwelling, it will be made available as an affordable dwelling, unless it can be demonstrated that it would not be suitable. Where unsuitability is demonstrated, a financial contribution to the provision of affordable housing, equivalent to 50% of the difference in the value between the affordable and market dwelling will be required." The size of rural affordable housing is strictly controlled and as such are limited to a maximum of 100 sq. metres. The proposed dwelling exceeds this amount and therefore should be reduced to 100 sq. metres." Housing Enabling did not comment as suggested "no objection in principle"
3. 17/01646/REM – This relates to a primary dwelling and therefore it is acceptable to support dwellings in excess of 100 sq. metres. There was existing temporary accommodation on site, which would be removed as per

planning condition No.6

4. 16/00606/OUT – Housing enabling were not a consultee on the outline application. I note the following comments were posted on 17/01978/REM - “As this is a secondary dwelling that will revert to an affordable home in the event it is no longer required for an agricultural worker it should aim for a maximum gross internal floorspace of not more than 100sqm”
5. 14/00494/FUL - Farm workers dwellings are noted as an exception in the SPD Type and Affordability of Housing from the need to contribute to the provision of affordable housing as per Policy CS11 of the Core Strategy. This is on the proviso that such dwellings are legally tied to a S106 Agreement which requires that the dwelling will default to affordable housing if no longer required for agricultural purposes. Proposed rural occupational dwellings should aim for a maximum gross internal floorspace of no more than 100sqm.

The application site is detached from the farm complex of Welbatch Farm and separated by a classified road. This detachment and the close relationship of the site to settlement of Hookagate would enable the dwelling to be occupied as a local needs dwelling, in the future, should the nature of the enterprise change. On this basis, it is particularly important that the dwelling is restricted in size to a 100 sq. metres, as required by Policy. The Housing Enabling and Development Officers **OBJECT** to the current proposal given that the floor area exceeds 100 sq. metres and the reasons advanced are insufficient to support an increase in area beyond the permitted 100 sq. metres.

4.1.6 **SC Rights of Way** No comments received.

4.1.7 **Cllr Roger Evans (Local Member)**

I note this application and that is for Reserved Matters. I fully support this and ask for it to be approved. This is for an essential Agriculture Workers dwelling as laid out in the original application which was granted. For the reason stated in the accompanying paperwork a relatively small amount of extra internal space is needed. In my opinion justification for this is shown.

Should officers disagree with this then I ask that it be referred to committee for final determination. There are important aspects of this application that provide reasons for why approval should be given and I would be happy to explain more to the appropriate committee.

4.2 **Public Comments**

4.2.1 The application has been publicised by site notice and in the local press. No public representations have been received.

**5.0 THE MAIN ISSUES**

- 5.1
- Principle of development
  - Planning policy considerations in respect of size of dwelling
  - Scale, layout and appearance
  - Residential amenity considerations
  - Highways and access considerations
  - Other considerations - drainage and ecology

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

6.1.1 Outline planning permission for the erection of an agricultural workers dwelling and garage on this site was granted in March 2019. In assessing the outline application officers considered that the applicant had satisfactorily demonstrated that there is an essential need for an additional agricultural worker to support the dairy operation at Welbatch Farm, and that it is essential that this worker lives within sight and sound of the farm. Officers considered that, given the absence of other suitable and available land and dwellings in the area, this particular location for the workers dwelling could be supported. The outline permission was granted following the completion of a Section 106 legal agreement which will ensure that the dwelling defaults to an affordable dwelling in the event that it is no longer required for agricultural purposes.

6.1.2 The outline permission has therefore established the principle of the provision of an agricultural workers dwelling at this site. This reserved matters application seeks approval for the access, appearance, layout, landscaping, and scale of the development.

### **6.2 Planning policy consideration in respect of size of dwelling**

6.2.1 There is an existing farmhouse at Welbatch Farm. As part of the consideration of the outline application for the agricultural workers dwelling which is the subject of this reserved matters application, Officers were satisfied that the applicant had demonstrated that there was a functional need for an additional dwelling to provide further accommodation for a farm worker. This decision was taken following advice received from the Council's agricultural consultants. For the reasons set out below, it is important to note that the house would be an 'additional' farm workers dwelling when assessing the proposal against planning policy.

6.2.2 In relation to dwellings to house essential rural workers, SAMDev Plan policy MD7a states that in the case of an additional dwelling this would be treated as affordable housing, including size restrictions. It states that if the dwelling becomes no longer required as an essential rural workers' dwelling, it will be made available as an affordable dwelling, unless it can be demonstrated that it would not be suitable as such. The Section 106 agreement which is associated with the outline planning permission provides the legal mechanism for requiring that the dwelling becomes an affordable dwelling if the need for the agricultural worker ceases. The dwelling would be situated on a separate parcel of land to the main farm buildings, separated from these by the Longden Road public highway. It would include a separate access to that used by the main farm buildings. Officers consider that it would be read as a rural dwelling in its own right as opposed to a dwelling associated with the farm. It would be highly suitable for use as an affordable dwelling should the agricultural need for it cease.

6.2.3 The adopted Type and Affordability of Housing Supplementary Planning Document (SPD) (2012) supplements Development Plan policy. It provides detailed guidance in support of policy, including matters relating to the size of farm workers' dwellings. It states that as a starting point, rural occupational dwellings should aim for a maximum gross internal floor space of 100m<sup>2</sup>. This is for consistency with the

maximum size allowed for affordable dwellings. It states that this 100m<sup>2</sup> is a reasonable figure given that it is considered by the Homes and Communities Agency to be the size of property needed to meet the needs of 6 persons, and is larger than the national average for new dwellings of 76m<sup>2</sup>.

6.2.4 For principal rural dwellings the SPD states that an appropriately larger dwelling may be acceptable, and that applicants would need to make the case for such on a case by case basis. The SPD does not include any similar statement that houses with a floorspace of more than 100m<sup>2</sup> may be acceptable in the case of 'additional' or secondary farm workers dwellings, as is the case with the current proposal. The proposed additional dwelling, with a floorspace of 127.3m<sup>2</sup>, is significantly larger than 100m<sup>2</sup> (27% larger) and as such Officers are of the view that it conflicts with the SPD.

6.2.5 Applicant's justification for proposed size of workers' dwelling

Satisfactory justification that there was a need for an additional agricultural workers dwelling to accommodate a farm worker at Welbatch Farm was provided as part of the outline planning application. The applicant has included a statement seeking to justify the size of the house. Officers have requested that the applicant amends the application to reduce the size of the house, however the applicant considers that the proposed size is necessary and has provided a statement seeking to justify this. This says that the occupant of the dwelling will be fully involved in all record keeping, communication and problem solving. The worker will need access to washing facilities, protective clothing storage and office records at all times. It states that access to the main farm office and utility area will not always be available to a worker, for example if the residents are away. The applicant states that the boot room is required to store protective clothing and footwear which needs to be immediately available 24 hours a day, and it is not practical to have this stored in the main farmhouse. It states that it is a requirement of animal welfare regulations and the spread of notifiable diseases that showering facilities are provided at the entrance on the ground floor. Furthermore that the office is required in order that immediate access is available to computerised records, and that access to these from the main farmhouse will not be available outside of normal working hours and during periods of absence of the occupants. It is proposed that the office is also used for meetings which may not always be possible in the farmhouse due to absence.

6.2.6 Officers accept that there may be a need for showering and storage space within a dwelling being provided to accommodate an additional farm worker. Officers consider that this could be provided within the overall size threshold of 100m<sup>2</sup>. It is considered that the planning policy is not unduly restrictive in this respect.

6.2.7 If the dwelling becomes no longer required to house an agricultural worker then the property would revert to an affordable dwelling under the terms of the Section 106 agreement. This is standard practice for such additional farm workers dwellings. It is therefore necessary to ensure that the dwelling would meet the size criteria for affordable dwellings, as set out in the SPD. The supporting text to SAMDev Plan policy MD7a states that 'additional' rural workers dwellings are essentially a specialist type of affordable dwelling. The SPD states that such dwellings will not normally be permitted to exceed 100m<sup>2</sup>.

6.2.8 The applicant's agent has referred to other permissions which have been granted for agricultural workers dwellings where the floorspace is larger than 100m<sup>2</sup>. Officers have looked into these and make the following comments:

- (i) 18/01347/FUL Agricultural workers dwelling and garage, Wingfield Farm, Pontesbury, permitted December 2018

Officer comments:

Floorspace 136m<sup>2</sup>

This permission was for a primary dwelling at the farm. For such proposals the SPD states that justification for dwellings larger than 100m<sup>2</sup> is to be made on a case by case basis.

- (ii) 18/00381/FUL Agricultural workers dwelling and detached garage, Trefonen, permitted January 2019

Officer comments:

Floorspace 101m<sup>2</sup>

This relates to an additional/secondary dwelling. The size of this dwelling is in line with planning policy.

- (iii) 17/02022/REM Agricultural workers dwelling, Harton – Church Stretton, reserved matters approval September 2017

Officer comments:

Floorspace 116m<sup>2</sup>

This relates to an additional/secondary dwelling. The applicant has advised that the Council's Housing team raised no objection in principle. However the actual comments of the Housing team were:

"The size of rural affordable housing is strictly controlled and as such are limited to a maximum of 100 sq. metres. The proposed dwelling exceeds this amount and therefore should be reduced to 100 sq. metres".

This is an additional/secondary dwelling, however it is located at the farm complex and adjacent to farm buildings.

- (iv) 17/01646/REM Agricultural workers dwelling, Baxters Farm, Eaton Constantine, reserved matters approval October 2017

Officer comments:

Floorspace 115m<sup>2</sup>

The permission is for a replacement agricultural workers dwelling, and therefore it is a primary dwelling, not a secondary one. For such proposals, planning policy allows for consideration of a larger dwelling on a case by case basis.

- (v) 17/01978/REM Agricultural workers dwelling, Coppice Farm, Burlton, reserved matters approval July 2017

Officer comments:

Floorspace 114.6m<sup>2</sup>

This relates to an additional/secondary dwelling, close to the existing farm buildings, with access being gained via the existing farm entrance.

(vi)

14/00494/FUL Agricultural workers dwelling, Rowton Grange, Rowton, permitted November 2014

Officer comments:

Floorspace 125m<sup>2</sup>

This relates to an additional/secondary dwelling, located at the farm complex, adjacent to agricultural buildings, and accessed via the farm entrance.

6.2.9 Officers consider that the Council has taken a reasonably consistent approach when dealing with applications for additional agricultural workers dwellings. The Council's Housing Enabling and Development team have provided consistent advice on these types of applications that their size should conform to planning policy, and that as the dwellings would be offered as affordable housing stock if no longer required to house an agricultural worker, that the size should be in line with such properties, i.e. 100m<sup>2</sup>.

6.2.10 As noted by the Housing team, the application site is detached from the farm complex of Welbatch Farm and separated from it by a classified road. It is approximately 125 metres from the main farm buildings and on a plot of land which, whilst visible from the farm complex, has little visual association with it. None of the sites listed above are directly comparable to the current application which relates to a plot of land geographically and visually separate to the farm complex.

6.2.11 Officers recognise that the site in its own right would not have been likely to have been supported as an affordable dwelling on policy grounds given its distance from the nearest settlement. However on the grounds that permission has now been granted in outline, it is considered it would be highly suitable as an affordable dwelling in the future as it has little geographical or visual association with the main farm complex. On this basis, granting approval to this size of dwelling would make it more difficult for the Council to resist other similar proposals for additional workers dwellings of a size which is significantly greater than 100m<sup>2</sup>. The proposal would therefore be contrary to SAMDev Plan policy MD7a and the adopted Type and Affordability of Housing SPD. It would also not be in line with Core Strategy CS11 which allows for exception sites for local needs dwelling subject to suitable scale.

### 6.3 **Scale, layout and design; impact on heritage assets**

6.3.1 Core Strategy policy CS6 (Sustainable Design and Development Principles) 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. Policy CS17 (Environmental Networks) seeks to protect the diversity, high quality and local character of Shropshire's natural, built and historic environment, and to ensure developments do not adversely affect these assets and surroundings. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. SAMDev Plan policy MD2 requires that developments contribute

to and respect locally distinctive or valued character of places. SAMDev Plan policy MD13 seeks to protect, conserve, enhance and restore Shropshire's heritage assets. In addition, section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard has to be given to the desirability of preserving listed building or their setting or any features of special architectural or historic interest which they possess.

6.3.2 Notwithstanding the policy issues raised by the size of the dwelling as set out above, it is considered that the design of the main house would be generally appropriate for its rural context. The Council's Conservation Officer considers that the design is generally reflective of a vernacular rural dwelling. The materials are appropriate in principle and precise details of these could be agreed by planning condition.

6.3.3 The dwelling would be situated approximately 140 metres from listed buildings at Welbatch Farm. Given this distance, the visual dissociation between the two sites, and intervening screening vegetation it is not considered that the proposal would adversely affect the setting of these heritage assets.

6.3.4 Officers do have concerns however regarding the proximity of the double garage and log store to the main dwelling. The separation distance would be less than one metre and from public viewpoints, such as the public highway, the garage would appear as being attached to the dwelling. It is considered that the distance between the garage and the dwelling are insufficient to ensure that the development is not perceived as an excessively large dwelling which would adversely affect the rural character of the area. It is considered that the plot is of a sufficient size to ensure a more satisfactory distance between the two buildings. As submitted, the proposal would be contrary to policies CS6 and MD2.

#### 6.4 **Residential amenity considerations**

6.4.1 Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires that development safeguards residential and local amenity. There are no other dwellings in the vicinity of the site and it is not considered that the proposal would impact adversely on other houses in the area.

#### 6.5 **Highways and access considerations**

6.5.1 The property would be accessed from Longden Road via an existing agricultural access. Conditions have been imposed on the outline planning permission to require that development does not commence until details of improvements to the access and of parking and turning have been submitted and approved. The applicant owns both the track and land either side of it to enable such improvements. The current reserved matters application does not raise any further highways issues.

#### 6.6 **Other considerations - drainage and ecology**

6.6.1 Core Strategy policy CS18 (Sustainable Water Management) states 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. Core Strategy policy CS17 and SAMDev Plan policies MD2 and MD12 seek to protect and enhance the natural environment.

- 6.6.2 The outline planning permission includes a pre-commencement condition which requires that a scheme of surface and foul water drainage is submitted for approval prior to the development commencing. These details would need to be submitted should approval of the current reserved matters be granted. Conditions relating to ecological protection are on the outline planning permission. These include: requiring prior approval for any external lighting in order to minimise disturbance to bats; and requiring the provision of bat and bird boxes. This reserved matters application does not raise any significant additional issues in respect of drainage and ecology.

## 7.0 CONCLUSION

- 7.1 This application seeks approval of access, appearance, landscaping, layout and scale matters in respect of an outline planning permission for an additional agricultural workers dwelling to house a farm worker at Welbatch Farm. Officers consider that the design of the dwelling is generally acceptable. Detailed matters relating to external materials could be agreed by planning condition if permission were to be granted. The house would be an 'additional' agricultural workers dwelling given that there is already a farmhouse at the main farm complex. As such, under the terms of the Section 106 agreement associated with the outline planning permission and in line with planning policy, the dwelling would need to be offered as an affordable dwelling if it were no longer required to house an agricultural worker. The floorspace of the house would be 127m<sup>2</sup> which is significantly larger than the 100m<sup>2</sup> which is the normal maximum size for affordable dwellings. Officers do not consider that the justification put forward for a dwelling of this size is sufficient to outweigh the Council's policy guidance. As such the proposal is contrary to Core Strategy policy CS11, SAMDev Plan policy MD7a and the adopted Type and Affordability of Housing SPD.

Furthermore, the proposed layout of the development, with a double garage and log store being positioned less than one metre from the main house, would result in a development which is perceived as one unit which is excessively large in its rural context, adversely impact on the rural character of the area. The proposal would therefore be contrary to policies CS6, CS17 and MD2.

For these reasons it is recommended that the application for approval of the reserved matters is 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 - 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.

## 9.0 **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. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD2 - Sustainable Design

MD7A - Managing Housing Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

SPD Type and Affordability of Housing

### RELEVANT PLANNING HISTORY:

PREAPP/16/00028 Single Plot Exception Site PREUDV 19th February 2016

PREAPP/16/00405 Proposed agricultural occupancy dwelling PREUDV 5th October 2016

18/00273/OUT Outline Application for the erection of an agricultural need dwelling and garage to include access GRANT 15th March 2019

## 11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PT140VTDN1G00>

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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Application documents 19/02641/REM
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Cabinet Member (Portfolio Holder)
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Councillor Gwilym Butler
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Local Member
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Cllr Roger Evans
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Appendices
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None
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Committee and date  
 South Planning Committee  
 19 November 2019

## Development Management Report

Responsible Officer: Tim Rogers  
 email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 19/03734/OUT	<b>Parish:</b> Minsterley
<b>Proposal:</b> Outline application (access for consideration) for mixed use development of residential and business units	
<b>Site Address:</b> Proposed Development Land At Former Bus Depot Minsterley Shrewsbury Shropshire	
<b>Applicant:</b> ATBAY Ltd	
<b>Case Officer:</b> Nanette Brown	<b>email:</b> <a href="mailto:planning.southern@shropshire.gov.uk">planning.southern@shropshire.gov.uk</a>

**Grid Ref:** 337923 - 305285



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**Recommendation:- Grant Permission subject to the completion of a s106 agreement to secure affordable housing provision on site and the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

1.1 This application seeks outline planning consent for a mixed use for the site, to include residential and business units with associated parking. All matters have been reserved for future consideration with the exception of access which is to be considered by this application.

1.2 The application form submitted states that 18 social houses are proposed along with 360sqm of B1(c) light industrial space which would equate to 12 fulltime jobs.

1.3 A site layout plan has been submitted with the application that shows the proposed site access located at the south eastern corner of the site. This drawing also gives an illustrative layout indicating the potential layout of the proposed housing at the front (south) section of the site and business units to the rear (north) of the site.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The application is set to the north of the A488, the main road that passes through Minsterley. The western boundary of the site extends to the eastern edge of the adjacent Muller dairy site, with residential housing located to the east, including the recently built housing accessed off Linden Fields. To the south of the site and A488 are situated some further residential properties, Maple Drive.

2.2 This brownfield site is currently unused and is surrounded by a metal security fence. The site area is stated as being 5737sqm.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as Minsterley Parish Council has submitted a view that raises material planning considerations and requests that the application be considered by the planning committee. The application has also been referred by the Local Member, and the Principal Planning Officer in consultation with the Committee Chairman and Vice Chairman agrees that the application should be determined by committee.

### 4.0 Community Representations

#### 4.1 - Consultee Comments

SUDs – No objection

Comments dated 9 September 2019:

The Surface Water Management Plan in the submitted FRA is acceptable in principle. Our drainage comments No. 2: Condition and No. 3: Informative Notes

dated 3 September 2019 remained unchanged.

Comments dated 3 September 2019:

1. A FRA should be submitted for approval prior to the determination of the planning permission.

#### SC Highways – Comments

It is considered that the proposed development could be acceptable, from a highways and transport perspective, if the following conditions are imposed and subsequently met.

The proposed main access road to the prospective employment area should be designed and constructed to an appropriate specification and layout to adoptable standards, to accommodate the size/weight of vehicles (HGV) that could potentially service the work units. Including appropriate parking and turning facilities, junction radii and visibility splays on the A488.

Should these proposals include significant landscaping, specific care will need to be applied to ensure that any new and existing trees, or sizable shrubs, do not result in difficulties for highway/pedestrian safety, both internally and/or along the principal road (A488), (i.e. root growth, leaf litter, etc.)

Given the proximity of the site to local amenities and to promote travel sustainability. It is considered that the development should provide a footway along the entire A488 frontage of the site. As well as a pedestrian/cycle link to this footway from the termination of the private residential estate road.

Notwithstanding the above, the proposed parking layouts for the affordable properties, near the junction with A488, will need to be reconsidered, prior to any future submission. Currently, the potential reversing of parked vehicles into the path of turning traffic from A488, is not in the interests of highway safety.

Conditions – road design, access prior to other operations, visibility splays, footway and informatives.

#### SC Ecology – No objection

Have read the submitted Preliminary Ecological Appraisal (Arbor Vitae, n.d.). Am happy with the level of survey work and recommend that the following conditions and informatives are included on the decision notice: Landscaping Plan, Bird and Bat boxes, lighting plan, nesting birds & wildlife protection.

#### SC Regulatory Services - comments

As per application 18/03583/OUT, the applicant has answered Question 6 of the application form indicating that land at the site is known to be contaminated. However, again an appropriate assessment has not been provided. We therefore refer to our previous comments and advise that that should the application be granted, the below conditions should be applied:

The applicant has indicated in Question 6 (existing use) that the site is both known to be contaminated and contamination is suspected for all or part of the site.

However, no contamination assessment has been submitted with this outline application.

The site is a former bus depot that included fuel storage and vehicle maintenance. Previous on-site investigations that Regulatory Services and the Environment Agency are aware of have identified significant contamination (organics TPHs, PAHs, and inorganics cadmium, arsenic and lead) in both soils and groundwater that remain un-remediated. Previous site investigations were carried out more than 11 years ago and given the potential mobility of the on-site contamination, Regulatory Services recommends that further investigation is now required in order to support remediation objectives for this site. Therefore, if this outline application is approved, the following conditions in respect of contaminated land are to be included in the Decision:

#### Contaminated land

- a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.
  - b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
  - c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
  - d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.
  - e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.
- Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Council's Contaminated Land Strategy 2013 in

Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

SC Affordable Housing team – No objection

The application site lies within the development boundary of Minsterley and as such Core Strategy Policy CS11 requires that the development contributes towards affordable housing. There would be a requirement for on-site affordable housing provision based on the prevailing target rate at the time of the Reserved Matters. The current prevailing rate for Minsterley is 15% and therefore for a development comprising 18 dwellings, would generate a requirement for 2 affordable dwellings together with a financial contribution for the remaining fraction, should the indicative layout be submitted as a Reserved Matters proposal. The current proposal relates to 100% affordable provision and is supported by the Housing Enabling team, subject to a S106 Agreement being in place to retain the affordable rented dwellings in perpetuity and to prescribe allocation in accordance with the Council's Allocation Policy.

Minsterley Parish Council – neither objecting to or supporting

The Parish council call for this application to go to committee and ask to speak at any such meeting.

1/ This majority of this land is covenanted land for business use. The portion allocated for housing exceeds the for residential land and all the covenanted land is given to residences.

2/ any footpath should be the length of the site

3/ adopted road to have highway lighting

4/ ensure exit has correct sight lanes

5/ requires relief drainage for culver for little Minsterley to avoid flooding which is currently under investigation by Shropshire council sponsored flood relief group

8/ there is a requirement on the parish plan for a nursery facility

#### 4.2 - Public Comments

One objection summarised as follows:

The adjacent Muller site currently operates with few planning restrictions and runs 24 hours a day, seven days a week; any granting of planning permission on the application site should not impede the existing and future use of this neighbouring site; previous appeal inspector considered that the development of the application site would be appropriate but with acoustic measures put into place including a site layout that places housing away from the boundary with the Muller factory; this proposed scheme and illustrative layout does not meet this previous appeal inspector requirement; given the close proximity of the site to the adjacent factory the issue of noise and disturbance should be dealt with at outline stage – no noise impact assessment has been submitted with this current application; the ownership and working patterns of the adjacent factory have changed since the previous/historic planning applications and any assessment of noise issues carried out at the time are no longer valid; NPPF para182 requires that new development should not result in existing businesses and facilities having unreasonable

restrictions placed on them as a result if development permitted after they were established with the applicant being required to provide suitable mitigation before the development is completed.

One support received summarised as follows:

Whilst no objections to the proposed development site due to the proximity of the adoptable road to neighbours boundaries would like to ensure there is a verge between adjacent properties and the road and that the existing boundary line (dwarf wall) is respected; trees that were previously removed when the land was cleared last November (2018) should be reinstated around the site; the location of any new street lighting needs to be respectful to neighbouring properties.

## 5.0 THE MAIN ISSUES

Principle of development & Site History  
 Access  
 Noise  
 Drainage  
 Ecology  
 Affordable Housing Contribution

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development & Site History

6.1.1 Minsterley is allocated as a combined key centre along with the neighbouring village of Pontesbury. Policy CS3 sets out that Key Centres will maintain and enhance their roles in providing facilities and services providing focus for economic development and regeneration. Balanced housing and employment development, of an appropriate scale and design that respects each settlements distinctive character will also take place within the identified development boundaries and on sites allocated for development.

6.1.2 The whole of the application site is contained within the identified development boundary of Minsterley. Core strategy Policy CS14 seeks to identify and maintain a suitable portfolio of employment land and within SAMDev, policy S.12 encourages new employment opportunities on existing appropriate sites within the development boundary.

6.1.3 The site is brownfield land and the front, south western part of the site is shown covered by an allocation for protected employment land on the SAMDev plan policy maps. Schedule 12.c of policy S.12 also identifies that this allocation/commitment will amount to 0.3ha in area.

6.1.4 The illustrative layout plan for this application indicates the provision of business units to the rear, northern end of the site covering an area less than 0.3ha, with the proposed affordable housing (18 units) set to the front of the site fronting the A488.

6.1.5 Whilst the area shown for the business units is less than 0.3ha officers have considered this proposal in light of the criteria set out in SAMDev policy MD4.2 for

proposals for alternative uses on portfolio sites. In this instance Officers consider that the proposed development whilst providing new employment opportunity, will also provide a significant community benefit with all of the housing proposed offered as social housing, well above the 15% prevailing target rate currently required and is therefore acceptable in policy terms.

#### 6.1.6 Site History –

SA/08/1506/O – Outline application for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with a three metre and six metre high acoustic fence to include access and layout – granted at appeal.

13/03197/OUT - Renewal of Extant Planning Permission SA/08/1506/O – Outline application for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with a three metre and six metre high acoustic fence to include access and layout – Committee resolution to grant planning permission subject to a s106 agreement to secure affordable housing (s106 was not completed).

18/03583/OUT - Outline application for mixed use development for residential, retail and business units with associated parking (all matters reserved) – Appeal against non determination.

Planning Appeal – APP/L3245/W/19/3221394 - appeal under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission (18/03583/OUT) – appeal dismissed. The reasons for the dismissal related to it not being demonstrated that the proposal would not represent an unacceptable risk to flooding, with the conclusion to the appeal decision letter stating:

*“Whilst the proposal would provide adequate living conditions for future occupants and would not result in any significant harm to the living conditions of existing neighbouring residents, with regard to noise, these are neutral effects and therefore carry no weight in favour of, or indeed against, the proposal. Therefore, there are no material considerations that outweigh the harm I have found in respect of the unacceptable risk the proposal represents to flooding.”*

#### 6.2 Access

6.2.1 This outline application includes access for consideration. In response to SC Highways officers comments the applicants have agreed to provide a public footpath across the whole of the sites frontage and have submitted amended plans that show this provision as well as confirming the visibility splay that could be achieved at the access point.

#### 6.3 Noise

6.3.1 Existing housing is located to the east of the site accessed off Linden Fields as well as Meadow Brook, an existing property accessed separately off the A488 that is also used as the offices to the charity The Pontesbury Trust.

- 6.3.2 SC Regulatory Services previously requested that a noise assessment be carried out on site as part of the planning application that was submitted to the LPA last year – ref 18/03583/OUT. This was requested due to the time that had passed since the previous historic applications were submitted and approved and the factors raised by agents acting on behalf of Muller's that noted that since 2009 the Muller site has changed ownership with different resulting work patterns and new plant equipment and machinery used. The Central Planning Committee at their meeting in December 2018 confirmed their agreement to request this information. The provision and need for a noise report/assessment was therefore subject of consideration by the subsequent appeal inspector.
- 6.3.3 In their decision letter for the planning appeal (ref APP/L3245/W/19/3221394) the inspector considered that one of the main issues was that of noise and the impact on both the residents of the proposed development and existing neighbours. They concluded that given the size of the site, there was no evidence to demonstrate that any potential effects of noise on existing and future residents could not be adequately mitigated through appropriate siting of the proposed uses and the use of mitigation measures secured by way of appropriately worded conditions. They found that the proposal would provide adequate living conditions for future occupants and would not result in any significant harm to the living conditions of existing neighbouring residents with regards to noise.
- 6.3.4 The applicant and their agents previously confirmed as part of the 2018 planning application that they were willing to carry out a noise assessment on site the details of which would be submitted as part of the first submission of reserved matters, when any mitigation works identified as required as a result could then be designed and directly related to the proposed detailed reserved matters scheme. In light of the appeal inspectors conclusions officers consider that this approach is appropriate in this instance.
- 6.4 Drainage
- 6.4.1 The applicants have submitted a Flood Risk Assessment (FRA) with this application, to address the reason why the appeal referred to at paragraph 6.1.6 above was dismissed. The Council's Drainage Consultants and the Drainage and Flood Risk Manager have confirmed that the contents of the submitted FRA are acceptable and are supportive of the proposals, subject to the submission of additional information of both surface and foul water drainage at reserved matters stage.
- 6.4.2 Officers note that the site is located adjacent to an existing area of mapped and reported flood risk, and whilst the development proposals will not address the cause of the flooding, they should result in a betterment in terms of flood depth and frequency for properties at risk nearby in Linden Fields.
- 6.5 Ecology
- 6.5.1 An ecological report has been submitted in support of the application that concludes that although the site is within 350 metres of the Minsterley Meadows SSSI the proposed development does not constitute a risk to the SSSI. No evidence of badgers were found on site. The report recommends some ecological enhancements including hedge planting, erection of bat tubes and bird boxes. SC

Ecologists have confirmed their agreement to the level of assessment provided and have requested that conditions be added to any planning permission granted requiring details of landscaping to be provided as part of a first submission of reserved matters, and with details of the provision of bat and bird boxes and details of any external lighting be provided prior to occupation or lighting provision.

## 6.6 Affordable Housing Contribution

6.5.1 SA Housing Enabling Officers have confirmed that if this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application. The current prevailing target rate for affordable housing in this area is 15%.

6.5.2 In this instance the applicant has offered up for the whole of the housing to be provided as affordable units. This approach is supported by SC Housing Enabling team, subject to a S106 Agreement being in place to retain the affordable rented dwellings in perpetuity and to prescribe allocation in accordance with the Council's Allocation Policy.

## 7.0 CONCLUSION

7.1 The whole of the application site is contained within the identified development boundary of Minsterley, a joint key centre with Pontesbury. Officers consider that in principle, the use of the site for mixed use of residential and business units will be acceptable and in line with current adopted policy aims. Officers are satisfied that issues of drainage details, noise assessment and mitigation and ecological enhancement can all be required and considered as part any first submission of reserved matters. This recommendation is subject to a s106 being completed to secure the provision of affordable housing.

## 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.

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
NPPF

Core Strategy and Saved Policies:

CS4 - Community Hubs and Community Clusters  
CS6 - Sustainable Design and Development Principles  
CS11 - Type and Affordability of housing

CS17 - Environmental Networks  
 CS19 - Waste Management Infrastructure  
 MD2 - Sustainable Design  
 MD3 - Managing Housing Development  
 MD4 - Managing Employment Development  
 MD12 - Natural Environment  
 Settlement: S12 - Minsterley - Pontesbury

**RELEVANT PLANNING HISTORY:**

18/03583/OUT Outline application for mixed use development for residential, retail and business units with associated parking (all matters reserved) NONDET 10th June 2019

**Appeal**

19/02724/NONDET Outline application for mixed use development for residential, retail and business units with associated parking (all matters reserved) DISMIS 10th June 2019

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)
Planning File 19/03734/OUT
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member Cllr Nick Hignett
Appendices APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. Approval of the details of the design and external appearance of the development, access arrangements, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 5 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.  
Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.
3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.
4. The premises shall be used for Class B1(a) (b) and (c) only and for no other purpose including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.  
Reason: In order to restrict the use of the premises in the interest of the amenities of the area.
5. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

A Noise Assessment of the site carried out to BS4142 to determine to the potential of disturbance of the occupants of the proposed residential dwellings and for appropriate mitigation measures proposed to be identified and put forward;  
The landscaping reserved matters submission shall comprise of a landscaping scheme including planting plans, measures for the protection of planting while they become established and measures for the protection of any retained planting during construction works; creation of wildlife habitats and features and ecological enhancements (e.g. hedgehog-friendly gravel boards and amphibian-friendly gully pots)].

Reason: To ensure the development is of an appropriate standard and to address the potential issues of noise and disturbance and ecological enhancement.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

6. a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.
- b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
- d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.
- e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.
- Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.
- Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:  
<http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>
7. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).  
Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.
8. No development shall take place until details of the design and construction of any new roads, footways, accesses, car/HGV parking & turning facilities, together with details of the disposal of highway surface water and street lighting, have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory access to the site.

9. Before any other operations are commenced, the proposed vehicular access and visibility splays, shall be provided and constructed to base course level and completed to adoptable standard as shown on the application drawings before the development is fully occupied and thereafter maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions.

Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

10. Prior to the commencement of the development full engineering details of the proposed footway along A488 shall be submitted to and approved in writing by the Local Planning Authority. The works shall be fully implemented in accordance with the approved details before any of the dwellings it would serve are first occupied.

Reason: To ensure a satisfactory means of access to the highway.

11. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

the parking of vehicles of site operatives and visitors;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

wheel washing facilities;

measures to control the emission of dust and dirt during construction;

a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

#### **CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

12. Prior to the first occupation of the development hereby permitted (or Prior to the commencement of the use hereby permitted) the approved visibility splay measuring 2.4 metres back from the nearside carriageway edge shall be provided to each side of the access and such splays shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.

Reason: To ensure the provision of adequate visibility in the interests of highway safety.

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

13. Demolition, construction works and associated deliveries shall not take place outside 7.30am - 6.00pm Monday to Friday, and 8.00am - 1pm Saturdays, with no work taking place on Sundays, Bank or Public holidays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

### **Informatives**

1. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990. The S106 may include the requirement for a financial contribution and the cost of this should be factored in before commencing the development. By signing a S106 agreement you are legally obliged to comply with its contents, irrespective of any changes to Planning Policy or Legislation.
2. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
3. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £116 per request, and £34 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

4. The use of soakaways should be investigated in the first instance for surface water disposal.

Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 35% for climate change. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway. Should soakaways are not feasible, drainage calculations should limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

5. Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas.

The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare Change allowance % of impermeable area

Less than 25 10

30 8

35 6

45 4

More than 50 2

Flats & apartments 0

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum.

Curtilage means area of land around a building or group of buildings which is for the private use of the occupants of the buildings.

6. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences. All vegetation clearance, tree removal and/or scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. No clearance works can take place with 5m of an active nest. If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.
7. Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs. If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm. Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife. The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife. All building materials, rubble, bricks and soil must be stored off the ground,

e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife. Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present. If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801). Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

8. The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
9. The attention of the applicant is drawn to Section 175A(3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways. No drainage to discharge to highway Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
10. The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e. wheelie bins & recycling boxes). Specific consideration must be given to kerbside collection points, in order to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycleways and carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety. <https://new.shropshire.gov.uk/planning/faqs/>
11. The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic (i.e. construction vehicles).
12. This planning permission does not authorise the applicant to:  
construct any means of access over the publicly maintained highway (footway/verge) or carry out any works within the publicly maintained highway, or

authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

13. If it is the developer's intention to request Shropshire Council, as Highway Authority, to adopt the proposed roadworks as maintainable at the public expense, then details of the layout, alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations shall be submitted to: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into  
<http://www.shropshire.gov.uk/hwmaint.nsf/open/7BD73DBD0D733532802574C6002E65E6>
  
14. Should any proposed trees or shrubs be located in close proximity of any proposed or existing public highway infrastructure (>3 m), appropriate root protection systems will need to be submitted and approved prior to construction. In order to mitigate against any future root damage to roads, footways and the utility services beneath. Also, any other landscaping/planting adjacent to the future highway will require appropriate maintenance and service arrangements, in perpetuity. In order to maintain any required visibility splays and to keep leaf litter clear of footways and drains, etc., in the interests of highway safety.



**Recommendation:** Refuse

**Recommended reasons for refusal:**

1. The existing building has no historic or architectural value which would justify its retention and reuse as an open-market dwelling. In any event the extent of the proposed enlargement is such that the scheme would be tantamount to erecting an entirely new dwelling which, in this countryside location outside any settlement designated for residential development, would directly conflict with the Council's housing strategy and would not represent sustainable development in the round. Though there may be some social and economic benefits these would be negligible, no significant weight can be given to the applicant's family circumstances, whilst an absence of more severe landscape, flood risk or other impacts does not offset the fundamental conflict with Policies CS1, CS3, CS4 and CS5 of the Shropshire Local Development Framework Adopted Core Strategy, and Policies MD1, MD3, MD7a and S5 of the Shropshire Council Site Allocations and Management of Development Plan.

**REPORT**

**1.0 THE PROPOSAL**

- 1.1 This application seeks full planning permission to enlarge an existing domestic garage block associated with Hysbatch Cottage (by means of extending its footprint southwards, raising the eaves and ridgeline and installing dormer windows), and to convert it into an independent, 1½-storey open-market dwelling. It follows the recent refusal, by officers under delegated authority, of similar application No. 18/05656/FUL, for the following reason:

*The existing building has no historic or architectural value which would justify its retention and reuse as an open-market dwelling. In any event the extent of the proposed enlargement is such that the scheme would be tantamount to erecting an entirely new structure which, in this countryside location outside any settlement designated for residential development, would directly conflict with the Council's housing strategy and would not represent sustainable development in the round. Whilst there may be some social and economic benefits these would be negligible, and neither would the absence of more severe landscape, flood risk or other impacts offset the fundamental conflict with Policies CS1, CS3, CS4 and CS5 of the Shropshire Local Development Framework Adopted Core Strategy, and Policies MD1, MD3, MD7a and S5 of the Shropshire Council Site Allocations and Management of Development Plan.*

- 1.2

The current application differs only in that:

- the dwelling would now feature facing brickwork up to sill height (the upper walls would still be timber-clad, as before), and solar panels on its rear roof slope; and
- a revised Design and Access Statement (DAS) presents some expanded/ additional arguments in support of the scheme.

- 1.3 Although an unfettered dwelling is proposed, the DAS says the specific intention is for it to house the applicant and his wife, allowing them to be on hand to assist their father/father-in-law who would remain living in the existing cottage.

**2.0 SITE LOCATION/DESCRIPTION**

2.1 Ticklerton is a small village 2½ miles southeast of Church Stretton in the Shropshire Hills Area of Outstanding Natural Beauty (AONB). The site comprises the rear portion of and entrance to the curtilage of Hysbatch Cottage, a traditional half-dormered stone-built property set in a hollow on the eastern fringes of the settlement, alongside a minor road towards Eaton. The garage stands in the northwest corner, siding a garden area which would be retained by the cottage. Built in the late 20<sup>th</sup> Century it is presumably of blockwork construction behind its synthetic stone cladding, and has a half-hipped plain tiled roof containing a storeroom. The property is surrounded by open fields, the closest neighbouring dwellings being two semi-detached pairs of mid-20<sup>th</sup> Century former Council houses known as 'Woodland View' some 80 metres to the northwest.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 In accordance with the Council's adopted 'Scheme of Delegation' the application is presented to the planning committee for determination because:

- the officer recommendation of refusal is contrary to the Parish Council's position of support; and
- Shropshire Council's Local Member has called in the application for committee consideration of the proposal as an exception to policy, given the Parish Council's support and the applicant's family's circumstances.

**4.0 COMMUNITY REPRESENTATIONS****4.1 Consultee comments****4.1.1 Eaton-under-Heywood and Hope Bowdler Parish Council – support:**

It is disappointing that the previous application was refused. This seems somewhat at odds with a current Shropshire Council survey intended to identify those in need of housing.

Despite Ticklerton being designated as open countryside for planning purposes, and councillors generally seeking to retain this designation, exceptions should be allowed in certain circumstances. This is one such case, as the applicants wish to be on hand to support an elderly relative.

The proposed dwelling would be visually unobtrusive, the vehicular access to the site is already established, and there have been no public objections.

**4.1.2 Shropshire Council Ecology – comment:**

Conditions should require bat and bird box provision and control external lighting. Informatives should advise on the legal status of bats and nesting birds, and on measures to protect wildlife in general.

**4.1.3 Shropshire Council Flood and Water Management – comment:**

The site is mapped as being at risk of surface water flooding. The applicant should therefore ensure that the finished floor level is set above any known flood level, or at least 150mm above ground level. Meanwhile an informative should encourage the use of sustainable surface water drainage systems (SuDS).

**4.1.4 Shropshire Hills AONB Partnership – comment:**

No site-specific comments. However this indicates neither objection nor lack of

objection to the application, and in reaching its decision the local planning authority must still satisfy its legal duty to take into account the purposes of the AONB designation, planning policies concerned with protecting the landscape, plus the statutory AONB Management Plan. The Partnership also reserves the right to make a further, detailed response.

4.1.5 Shropshire Council Affordable Housing – no objection:

There are no affordable housing obligations associated with this proposal.

4.1.6 Shropshire Council Highways Development Control – comment:

From a highway safety perspective the development is likely to be acceptable in principle. However the following points should be addressed:

- Whilst there is likely to be sufficient space for vehicle parking and turning in connection with both dwellings, details should be sought.
- The first five-metre stretch of the access should be metalled in order to prevent loose material becoming displaced onto the road.
- The junction width and radii should be sufficient to allow entering and exiting vehicles to pass without obstructing the road.
- Although the access is established, visibility to the right (southeast) is of concern. Splays appropriate to the road conditions and the proposed intensification of the junction's use should be provided.

Additionally, any permission given should include informatives advising on the need to keep the road clear of mud and surface/waste water from the site, and on the requirement for a licence for any works on or abutting highway land.

4.2 **Public comments**

4.2.1 None

5.0 **THE MAIN ISSUES**

- Principle of development
- Affordable housing contribution
- Layout, scale, design and landscape impact
- Residential amenity
- Access and highway safety
- Flood risk and drainage
- Ecology

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

6.1.1 A key objective of both national and local planning policy is to concentrate residential development in locations which promote economic, social and environmental sustainability. Specifically the Council's Core Strategy Policies CS1, CS3, CS4 and CS5 seek to achieve managed, targeted growth by steering new-build open-market housing to sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters') as identified in the relatively recent Site Allocations and Management of Development (SAMDev) Plan. Sporadic development in open countryside (i.e. outside the designated settlements) is generally unacceptable unless there are exceptional circumstances (typically those outlined in Core Strategy Policy

CS5 and SAMDev Policy MD7a, such as a specific and demonstrable need for an 'affordable' home for qualifying local people, or to house an agricultural worker at his place of work), or unless other material considerations are held to outweigh the statutory priority which must be afforded to the local development plan.

- 6.1.2 Ticklerton is a small village with few services and facilities. It is not designated for new housing under SAMDev Policies MD1 and S5, and consequently is classed as countryside for planning purposes. Although Core Strategy Policy CS5 does allow the sympathetic conversion of appropriate existing rural buildings, it gives priority to small-scale economic/employment-generating development, affordable housing and "other uses appropriate to a countryside location", before continuing: "open market residential conversions will only be considered where respect for the heritage asset... and high standards of sustainability are achieved". It therefore implies that only buildings which qualify as heritage assets will be considered suitable for use as unfettered dwellings, and this is confirmed by SAMDev Policy MD7a.
- 6.1.3 The National Planning Policy Framework (NPPF) defines heritage assets as buildings, monuments, sites, places, areas or landscapes identified as having a degree of significance meriting consideration in planning decisions because of their heritage interest, including both assets designated by statute, and non-designated assets as may be identified by the local planning authority. The Council's Supplementary Planning Document (SPD) on the Type and Affordability of Housing elaborates, explaining that heritage assets normally predate 1950, exhibit traditional materials and building methods, are of permanent and substantial construction and local significance, and add value to the landscape. It is on account of such qualities that a heritage asset might be considered worthy of retention and reuse even as an open market dwelling, whereas a building of little or no historic value might be suitable only for a more limited range of alternative uses offering greater social or economic benefits, or else none at all.
- 6.1.4 In this case the garage block cannot be regarded as a heritage asset given its modernity (it was approved in 1988 under planning application No. SS/1988/274/P/), non-traditional construction and limited architectural merit. In any event the need for substantial enlargement in order for it to function as a family home means the development would actually be tantamount to a new-build dwelling. The fact that this would be an unfettered property saleable on the open market means officers give very little weight to the family circumstances recounted in the DAS, which in any event are not particularly persuasive because:
- there is no evidence that the applicant's father-in-law currently requires day-to-day assistance on healthcare grounds (on the contrary it is stated that the existing cottage and its garden are still manageable for him at present);
  - any such needs would be relatively short-term; and
  - other arrangements may potentially be available.
- Thus the proposal fundamentally conflicts with the aforementioned policies, and moreover this could not simply be overcome by imposing a condition or legal agreement restricting occupancy without any sound planning justification.
- 6.1.5 The DAS implies that Policies CS5 and MD7a merely provide examples of special circumstances in which new housing might be permissible outside designated

settlements, rather than an exhaustive list. Certainly, however, they do not expressly support unfettered residential development in the countryside, instead stating that it should be “strictly controlled”. SAMDev Policy MD3, meanwhile, does give some scope for “other sustainable housing development”, but this is qualified by a requirement to also have regard to the other relevant local plan policies, and in particular to the likelihood of first meeting the housing guidelines within the designated settlements. At this juncture, with seven years of the current Plan period left to run, applications for two large housing schemes in Church Stretton already submitted and one of them approved, and the Council’s ‘Five Year Housing Land Supply Statement’ confirming a more-than-sufficient supply of deliverable housing land overall, there is no pressing need to allow further open-market development elsewhere, despite the applicant claiming that the local housing guidelines at least are unachievable. Indeed the Council’s position on this issue is supported by recent appeal decisions.

#### 6.1.6 Regarding other points in the Design and Access Statement (DAS):

- Before being adopted, both the SAMDev Plan and Core Strategy were declared sound by a Secretary of State inspector. This included the Council’s expectations for rural housing delivery, which were considered appropriate and achievable, and the methodology for identifying Hub and Cluster settlements. Although no such designations were made in the Church Stretton area, not all parts of the county must necessarily receive identical proportions of new housing in order to achieve sustainable development and a ‘rural rebalance’.
- There is recent case law on the issue of whether or not there is a freestanding presumption in favour of sustainable development under the NPPF, irrespective of an up-to-date local plan being in place. In *Barwood Strategic Land II LLP vs East Staffordshire Borough Council and Another* (ref. C1/2016/4569), a High Court judge ruled that a planning inspector had misconceived the NPPF in relying on it to justify a large housing development outside the development boundary of Burton-on-Trent, contrary to East Staffordshire Borough Council’s recently adopted local plan. Furthermore he confirmed that, as a statement of planning policy rather than a statute, the NPPF does not have the same weight as Section 38(6) of the Planning and Compulsory Purchase Act 2004, which effectively gives precedent to the local plan where it is up-to-date. Indeed this is clarified in subsequently updated versions of the NPPF, which state: “The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan..., permission should not usually be granted.”
- The DAS references a number of successful applications (some of them approved on appeal) for new dwellings in other countryside locations in Shropshire. However these are not considered directly comparable as the majority relate to villages closer to Church Stretton and with more facilities of their own, others to agricultural worker’s dwellings or straight conversions of existing buildings, and one in fact to a site *within* a Cluster settlement (application No. 18/04485/OUT at Weston Lullingfields). Most also predate the above case law on the NPPF presumption in favour of sustainable development.
- Although Core Strategy Policy CS10 seeks to prioritise redevelopment of brownfield land, this must be “on suitable sites in sustainable locations”. Similarly, whilst the NPPF definition of ‘previously developed land’ includes the curtilage of developed land, this is qualified by the statement: “it should not be assumed that

the whole of the curtilage should be developed”. Moreover residential gardens, in urban areas at least, are specifically *excluded*. In this case the garage is not redundant, and in any event officers maintain that redevelopment of brownfield sites should still generally reflect both the overarching ambitions of the NPPF and the Council’s adopted housing strategy by avoiding sporadic new homes in the countryside.

- The applicant claims that the Council is currently well below its aim of achieving 60% of development on brownfield land, and that this weighs in the proposal’s favour. However approving this application for just one house would make little difference, and again this argument ignores other, more fundamental policy requirements.
- The applicant argues that a current review of the Local Plan will only increase the requirements for new housing and redeveloping brownfield sites. However this review currently attracts very little weight as it is at an early stage, with formal adoption of any changes still subject to consideration of outstanding objections and examination by a Secretary of State inspector. In any event the Parish Council does not appear to have nominated Ticklerton as a future Hub or Cluster settlement as part of the review process.
- It is mentioned that the proposed dwelling would be a self-build project, but again this does not override all other policy considerations and objectives. The NPPF is clear that such schemes must be considered within the overall context of strategic housing policies, whilst a recent appeal decision on a proposed dwelling in another undesignated Shropshire settlement emphasised that self-build legislation is not a *carte blanche* for development in otherwise unsuitable locations. It is also worth noting that this appeal decision found no evidence of the Council failing its duty to facilitate self-building.
- Officers acknowledge that the proposal would deliver some benefits, for example by helping to boost the local supply of housing, and possibly supporting local contractors during the construction period and/or increasing patronage of services and facilities in neighbouring villages longer-term. Again, however, the impacts of a single dwelling in these respects would be very modest, and in fact it seems more likely that occupiers would rely heavily on travel by private car in order to work, shop and meet other day-to-day needs in larger settlements (Church Stretton included).
- The lack of more significant landscape, flooding or other impacts (see following sections) are at best neutral factors rather than positive benefits sufficient to offset the wider harm the scheme could cause by undermining the Council’s adopted housing strategy.

6.1.7 Given the above officers still consider that the proposal fails to represent sustainable development in the round, and is unacceptable in principle.

## 6.2 Affordable housing contribution

6.2.1 Core Strategy Policy CS11 and the aforementioned SPD require all market housing schemes to make an affordable housing contribution (usually a one-off payment in lieu of on-site provision where a small number of dwellings is proposed). However this requirement is now effectively superseded by the revised NPPF, which states categorically that affordable housing provision should not be sought in connection with small-scale developments. It must therefore be accepted that the Council’s policies in

this respect are out-of-date and can no longer be given significant weight, meaning no affordable housing contribution would be required here.

### 6.3 **Layout, scale, design and landscape impact**

6.3.1 As with the previous application, the scheme is acceptable in that the dwelling's simple, low, linear form would reflect the vernacular tradition reasonably well, whilst the weatherboarded finish would give a more rustic quality than the current synthetic stone, plus a degree of subservience to the original cottage. Furthermore the separation from the latter would avoid a cramped appearance, and the lack of a highway frontage would not be particularly unusual in this area. However the design is hardly so exceptional as to justify in itself a new dwelling in the countryside, and the same applies to the current plans' inclusion of solar panels.

6.3.2 It is also accepted that the development would not impact unduly on the open character or scenic beauty of the wider landscape, given the presence of the existing building, its position within an established domestic plot, and the relatively low-lying and hence secluded location. Again, however, and as explained above, this does not offset the scheme's fundamental conflict with the countryside designation.

### 6.4 **Residential amenity**

6.4.1 The separation from Hysbatch Cottage would also be acceptable having regard to privacy and outlook, especially if the two homes were initially occupied by members of the same family, as envisaged. Both would have sufficient outdoor amenity space, and moreover there would be little impact on the Woodland View properties given the distance and topography in-between.

### 6.5 **Access and highway safety**

6.5.1 Regarding the Highways Development Control Team's comments, precise details of the access layout and surfacing, and also of parking and turning provision, could be secured by condition. There is limited scope to improve the south-easterly visibility splay as the adjacent land there is outside the applicant's control. However this was not raised as a particular concern under the previous application, the road is lightly trafficked, and the Highways officer still does not formally object.

### 6.6 **Flood risk and drainage**

6.6.1 The site's risk of pluvial flooding could be said to add to the proposal's unacceptability, since the 'sequential' and 'exception' tests in the NPPF generally seek to avoid development in areas of higher risk. On balance, however, this is not recommended as a secondary refusal reason on the basis that the development is, at least in part, a conversion scheme to which those tests do not apply. Furthermore the original DAS outlined mitigation measures which, along with full drainage details, could be secured by condition, and subject to this the Flood and Water Management Team does not object.

### 6.7 **Ecology**

6.7.1 The Ecology Team accepts that sufficient ecological mitigation and enhancements could be secured through conditions. However, controlling external lighting in that way may be unreasonable given that the site is part of an established domestic curtilage where no such restriction currently applies.

## **7.0 CONCLUSION**

7.1 The existing building has no historic or architectural value which would justify its retention and reuse as an open-market dwelling. In any event the extent of the proposed enlargement is such that the scheme would be tantamount to erecting an entirely new dwelling which, in this countryside location outside any settlement designated for residential development, would directly conflict with the Council's adopted housing strategy and would not represent sustainable development in the round. Although there may be some social and economic benefits these would be negligible, no significant weight can be given to the applicant's family circumstances, whilst the absence of more severe landscape, flood risk or other impacts does not offset the fundamental conflict with the relevant planning policies. It is therefore recommended that planning permission is refused.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk management**

8.1.1 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**

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst 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.

8.2.2 Article 1 also requires that the desires of landowners must be balanced against the impact of development upon nationally important features and on residents.

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

### **8.3 Equalities**

8.3.1 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**

- 9.1 There are likely financial implications if the decision and/or imposition of conditions are 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.

## **10.0 BACKGROUND**

### **Relevant Planning Policies:**

#### Central Government Guidance:

National Planning Policy Framework

#### Shropshire Local Development Framework:

##### Core Strategy Policies:

- CS1 - Strategic Approach
- CS3 - The Market Towns and Other Key Centres
- CS4 - Community Hubs and Community Clusters
- CS5 - Countryside and Greenbelt
- CS6 - Sustainable Design and Development Principles
- CS7 - Communications and Transport
- CS9 - Infrastructure Contributions
- CS11 - Type and Affordability of housing
- CS17 - Environmental Networks
- CS18 - Sustainable Water Management

##### SAMDev Plan Policies:

- MD1 - Scale and Distribution of Development
- MD2 - Sustainable Design
- MD3 - Managing Housing Development
- MD7A - Managing Housing Development in the Countryside
- MD12 - Natural Environment
- S5 - Church Stretton Area Settlement Policy

##### Supplementary Planning Documents:

Type and Affordability of Housing

### **Relevant Planning History:**

SS/1988/274/P/ – Erection of detached private garage and store (permitted May 1988)

18/05656/FUL – Conversion and extension of domestic garage to form separate dwelling (refused May 2019)

## 11.0 ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PXDE2MTDHLPO0>

<b>List of Background Papers:</b>
Application documents available on Council website
<b>Cabinet Member (Portfolio Holder):</b>
Cllr Gwilym. Butler
<b>Local Member:</b>
Cllr Cecilia Motley
<b>Appendices:</b>
Appendix 1 – Informatives

## **APPENDIX 1 – INFORMATIVES**

1. In arriving at this decision the Council has endeavoured to work with the applicant in a positive and proactive manner, as required by Paragraph 38 of the National Planning Policy Framework, by providing detailed pre-application advice as well as further discussing the relevant planning policy considerations during the course of both this and a previous, similar application. Fundamentally, however, the proposal is contrary to policy for the reason set out above, and hence it has not been possible to reach an agreed solution in this instance.



Committee and date

South Planning Committee

19 November 2019

## Development Management Report

### SCHEDULE OF APPEALS AND APPEAL DECISIONS

#### AS AT COMMITTEE 19 NOVEMBER 2019

<b>LPA reference</b>	18/05657/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	John Taylor
<b>Proposal</b>	Erection of a front extension (amended description)
<b>Location</b>	5 Cape Street Broseley
<b>Date of appeal</b>	15/10/2019
<b>Appeal method</b>	Written representations – fast track
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	18/04313/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs Duboulay
<b>Proposal</b>	Use of land for stationing of 8 eco-pods for holiday use with associated car parking (revised scheme)
<b>Location</b>	Proposed Camping Land West Of The Bayliffs House Spout Lane Benthall Broseley
<b>Date of appeal</b>	18/10/2019
<b>Appeal method</b>	Written representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	19/00344/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Richard Dixon
<b>Proposal</b>	Erection of three terrace houses following removal of existing single storey extensions
<b>Location</b>	Tankerville Arms Shrewsbury Road Longden Shrewsbury Shropshire SY5 8EX
<b>Date of appeal</b>	21.10.2019
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	19/01878/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr John Swain
<b>Proposal</b>	Erection of a detached two storey dwelling
<b>Location</b>	Honeysuckle Cottage Cruckton Shrewsbury Shropshire SY5 8PR
<b>Date of appeal</b>	04.07.2019
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	24.09.2019
<b>Date of appeal decision</b>	23.10.2019
<b>Costs awarded</b>	
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	19/02495/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mr M Cawley
<b>Proposal</b>	Erection of a single storey extension to adjoin the side elevation of the existing rear extension
<b>Location</b>	13 Upper Linney Ludlow SY8 1EF
<b>Date of appeal</b>	28.10.19
<b>Appeal method</b>	Householder – Fast Track
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	17/03774/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Clive Jessup
<b>Proposal</b>	Residential development of 74 Extra Care apartments and associated facilities, 6 bungalows and 58 houses; improved access
<b>Location</b>	Proposed Residential Development Land East Of Shaw Lane Albrighton
<b>Date of appeal</b>	07.05.2019
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	18 and 19 September 2019
<b>Date of appeal decision</b>	01.11.2019
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

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## Appeal Decision

Site visit made on 24 September 2019

**by M Savage BSc (Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 October 2019**

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**Appeal Ref: APP/L3245/W/19/3232552**

**Honeysuckle Cottage, Cruckton, Shrewsbury SY5 8PR**

- 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 Mr John Swain against the decision of Shropshire Council.
  - The application Ref 19/01878/FUL, dated 11 April 2019, was refused by notice dated 20 June 2019.
  - The development proposed is described as 'a single open market dwelling of a revised design'.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling at Honeysuckle Cottage, Cruckton, Shrewsbury SY5 8PR, in accordance with the terms of the application, Ref 19/01878/FUL, dated 11 April 2019, subject to the conditions below:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 01, Drawing No 03, Proposed Elevations Plan (with dimensions), Proposed Floor Plan (with dimensions).
  - 3) No development above floor slab level shall take place until details of the roofing materials and the materials to be used in the construction of the external walls has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
  - 4) The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

### Procedural Matters

2. I have taken the description of the development in the heading above from the planning application form. However, in the decision I have removed words which are not acts of development.

### Main Issues

3. The main issue is whether the appeal site is a suitable location having regard to access to local shops, community facilities and bus services and local and national planning policy.

## Reasons

4. The appeal site comprises an infill plot located between Honeysuckle Cottage and Fenlander, in the established settlement of Cruckton, a fairly tight knit settlement comprising residential properties and limited facilities. The proposed dwelling would be walking distance from bus stops which are served by the number 558 bus which provides public transport links to nearby Shrewsbury. The site would also be within walking distance of Hanwood, via a footpath and public bridleway.
5. Policies CS1 and CS4 of the Shropshire Local Development Framework Adopted Core Strategy (Core Strategy)(2011) seek to direct development in rural areas towards community hubs and community clusters. Policy MD1 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) sets out the scale and distribution of development in the area and sets out those settlements that have been identified as Community Hub or Cluster settlements. Policy MD3 of the SAMDev Plan sets out that where a settlement housing guideline appears unlikely to be met, additional sites outside the settlement development boundaries may be acceptable. Cruckton is not located in a community hub or cluster and for the purposes of applying policy is therefore in countryside. I have been provided with no substantive evidence that settlement housing guidelines would be unlikely to be met.
6. Policy CS5 of the Core Strategy and MD7a of the SAMDev Plan seek to control development in the countryside. The supporting text of Policy CS5 explains that proposals which would result in isolated, sporadic, out of scale, badly designed or otherwise unacceptable development, or which may either individually or cumulatively erode the character of the countryside will not be acceptable. Paragraph 78 of the National Planning Policy Framework (the 'Framework')(2019) states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
7. I acknowledge that, given the site's location, there would be conflict with Policies CS1, CS4 and CS5 of the Core Strategy and Policies MD1, MD3 and MD7a of the SAMDev which seek to direct new development to identified settlements. However, although there are limited facilities within Cruckton, bus services to Shrewsbury would be accessible by foot, as would the facilities of Hanwood. As such, I consider the policy conflict would be minor, and the general objective of Policy CS4 of the Core Strategy to enable rural communities to become more sustainable, would be met.
8. Significantly, planning permission 14/04459/OUT was granted at the site for the erection of one dwelling in 2016. I have no substantive evidence that the planning permission was lawfully implemented. However, the fact that the Council has previously granted permission on the site is an important consideration. At the time the Council determined the application it was able to demonstrate a 5 year supply of housing, as is the case now. Although there are differences between planning permission 14/04459/OUT and the appeal scheme, the main difference between the two schemes is that the previous planning permission was accompanied by a S106 agreement which would secure a financial contribution towards affordable housing.

9. Paragraph 56 of the Framework states that planning obligations must only be sought where they meet the tests<sup>1</sup>, including that they are necessary to make the development acceptable in planning terms. It was acknowledged within the Officer Report that the Written Ministerial Statement<sup>2</sup> (WMS) applied. Although a revised Framework has since been published, the effect of the advice in respect of the appeal scheme is broadly the same, that given the number of dwellings proposed, a contribution for affordable housing should not be sought.
10. Policy CS11 of the Core Strategy sets out the Council's policy in respect of the type and affordability of housing. Whilst the previous planning permission would have secured a contribution towards affordable housing, given the effect of the WMS, it should not have been taken into account by the decision maker and as such, the appeal scheme should have been determined in a consistent manner. Accordingly, there would be no conflict with Policy CS11 in this regard.
11. Although the SAMDev Plan period is now well underway, this does not diminish the Government's aim of significantly boosting the supply of homes, as set out in the Framework. I note the modest benefits that development of the site would make to local housing supply and in the absence of harm conclude that the proposal would deliver social benefits through the provision of an additional dwelling.
12. Taking all of the above into consideration, I conclude that the appeal site would be an appropriate location for the proposed development and that the modest benefits of the appeal scheme would outweigh the limited conflict with the policies identified above.

### **Conditions**

13. I have considered the conditions put forward by the Council and other parties against the advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity and omitted others. In the interests of certainty and proper planning I have included conditions relating to commencement, plans and materials.
14. The Council has suggested the inclusion of a condition requiring the hedge along the south eastern boundary of the property to be adjusted to provide increased visibility. However, I have no details as to what extent the hedge should be adjusted, nor is it clear what effect this would have over the life of the development since the hedge would simply grow back. Such a condition would therefore fail to meet the tests set out in the Framework.
15. The Council has suggested a condition to secure details of surface and foul water drainage. However, the Council did not request such a condition in respect of the previous planning permission at the site. I have no substantive evidence that it would not be possible to design a satisfactory scheme and, as these matters would be addressed by other legislation, I consider the suggested condition is, in this instance, unnecessary.

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<sup>1</sup> Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

<sup>2</sup> Issued on 28 November 2014

**Other Matters**

16. The Council has made reference to Policy S10 of the SAMDev Plan in its decision notice. However, Policy S10 relates to the Ludlow area and is therefore not directly relevant to the appeal scheme before me.

**Conclusion**

17. For the reasons given above, and having regard to all matters raised, the appeal is allowed.

*M Savage*

INSPECTOR



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## Appeal Decision

Hearing held on 18 September

Site visit made on 18 and 19 September 2019

**by B Bowker Mplan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 November 2019

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**Appeal Ref: APP/L3245/W/18/3217667**

**Development Land East of Shaw Lane, Albrighton WV7 3DS**

- 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 Jessup against the decision of Shropshire Council.
  - The application Ref 17/03774, dated 31 July 2017, was refused by notice dated 3 August 2017.
  - The development proposed is construction of 74 extra care apartments and associated facilities, 6 bungalows and 58 houses.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - the effect of the proposal on highway safety; and,
  - the effect of the proposal on the character and appearance of the surrounding area and the setting of a nearby listed building.

### Reasons

#### *Highway safety*

3. The appeal site is located to the east of Albrighton and comprises part agricultural land and land used in conjunction with a former gas works. Of the 138 dwellings proposed, 110 would be affordable houses and the proposal would allow future connectivity to safeguarded land to the east. Under the Site Allocations and Management of Development Plan (SAMDev) Albrighton is identified as a key centre that will deliver 250 dwellings over the plan period. The site forms part of a wider housing allocation (ALB002) which makes provision for 180 dwellings. Of relevance, the SAMDev development guidelines for the housing allocation states that proposals must provide for the long-term comprehensive development of this site and facilitate an eventual through road between Kingswood Road and the northern end of Shaw Lane.
4. Although the proposal includes a highway up to the site boundary, the adjoining development to the south would not. In addition, the appellants and adjoining developer have not reached an agreement to ensure that a through road is delivered, nor was the planning permission at the adjoining site subject

to a legal agreement to deliver a through road. Based on the evidence submitted and what I heard at the hearing, the likelihood of future connectivity (including for pedestrians and cyclists) between the sites is low. Thus, despite the appellants' efforts, the proposal would not facilitate a through-road as anticipated by the Development Guidelines in SAMDev Schedule S1.1a. The Statement of Common Ground (SoCG) sets out that the main parties agree that Policy S1 ALB002 and its associated proposals map does indicate any specific requirement or preference for the means of access to the allocation. In any event, the development would be served solely by a vehicular access onto Shaw Lane, and it is on this basis that the appeal has been submitted and determined.

5. St Mary's Primary School currently utilises the proposed site access. A road sign and 'keep clear' road markings indicate its presence. Near the site is a railway station and a medical centre. The site access would be altered, widened and improved to adoptable standards and remain in use by the school. The trip rates in the Transport Assessment<sup>1</sup> (TA) are based on high car ownership figures. In addition, the nearby railway station would offer residents an alternative to vehicular transport. The TA does not account for 'non-development' traffic and is based on 69 extra care apartments rather than 74. This aside, the comings and goings, junction data and survey methodology were agreed with the Highway Authority. Although concerns were raised by the Highway Authority during the application process, it did not object to the proposal.
6. During my early evening site visit, Shaw Lane was subject to limited traffic and on street parking was available. However the concerns of the Council and local residents primarily relate to highway activity associated with the primary school during the morning and mid-afternoon, and the railway station and medical centre. I observed traffic and highway activity during the morning and noted that parents and pupils arrived predominantly on foot to the school from 0810 and particularly from around 0840 onwards when increased numbers arrived. I understand that the school headteacher has to be present in the mornings to ensure highway safety, and she was near the school entrance during my site visit. Vehicular traffic was relatively limited but included a school coach passing by to pick up pupils at a bus stop on Station Road and a van that drove up onto the footway. However, I appreciate that my site visit provides a snapshot only of local highway conditions and activity.
7. There has been no record of highway accidents over the past five years and beyond. However, considerable local concern has been raised regarding the safety of the existing highway network. Furthermore, based on the photographs and representations of local residents, owing to on street parking, vehicles driving up the pavement is not an unusual occurrence at Shaw Lane. In response, the appellants set out that any such instances are a highway offence that require the involvement of the police and highway authority. However, discussion during the hearing indicated that the police have been involved. Moreover, regardless of its legality, the evidence indicates that vehicles do drive and park along the footway in response to highway conditions along this section of Shaw Lane. Furthermore, the movements of children, which can include the use of bicycles and scooters, can be difficult to manage. Local representations also indicate that some children are dropped off by

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<sup>1</sup> Undertaken by Savoy Consulting, dated July 2016.

vehicle, that safety concerns have been raised by the school bus provider, and arrivals at the school begin from 0800 owing to a breakfast club. Overall, the evidence indicates that existing conditions present safety risks to highway users.

8. Based on census data and the predicted employment location of future residents, the TA assumes that the majority of journeys associated with the development will have occurred by 0800, thus outside the school period. The appellants also state that traffic counts indicated that commuters travelling along Shaw Lane had left for work before any children were seen to be arriving for school. In this light, I observed relatively limited vehicular traffic during my morning visit. However residents could work closer to home, morning start times could vary (depending on employment type), and vehicles would also arrive to the site during the morning peak time. Moreover there would be no way to ensure that the majority of morning journeys would occur outside peak morning school traffic times. Thus I give limited weight to this assumption.
9. The appellants contend that traffic generation associated with the proposal would be modest. In addition, future residents could utilise the railway station for journeys, a Travel Plan could be secured by condition, and although concern was set out by the headteacher at the hearing, the mitigation measures to the access road have received support from the school. However the morning vehicular traffic associated with the proposal would not be modest in the context of existing highway conditions. Whilst Manual for Streets compliant visibility splays are proposed, vehicles would still have to pull close to the junction to achieve visibility and into an area that would have an increased and high concentration of vehicular and pedestrian activity. In this light, as the risk to highway safety does not relate to vehicular speeds, the proposed raised table would not fully mitigate the risk of conflict. Nor would the proposed pedestrian barrier or removal of on street parking at the site and to the front of terraced properties at Shaw Lane fully prevent the risk of conflict and collision at the junction, or the increased likelihood of vehicles driving along the footway to the south.
10. Parking retained for railway users could reduce on-street parking in the area and opening up the access to the site provides the possibility for drop off parking for the school to help alleviate congestion along Shaw Lane as identified at paragraph 4.38 the Albrighton Neighbourhood Plan 'Light' (ANPL). However, paragraph 4.41 of the ANPL notes that the Kingswood Road access would facilitate a more long-term integrated solution to the whole site. Furthermore parking opportunities at the site would necessitate additional activity at the site access on Shaw Lane.
11. Drawing the above together, the increased vehicular activity associated with the development at the site access junction with Shaw Lane would unacceptably increase the risk of conflict and confusion between highway users, to the detriment of highway safety. It is put to me that many primary schools in Shropshire front directly onto roads with far higher traffic flows. In addition and as set out above, the site forms part of a larger housing allocation. The appellants also suggested that provision of a through road could make traffic worse. However, I must determine the appeal on its own individual merits. Moreover these factors do not justify or prevent the unacceptable impact the proposal would have on highway safety along Shaw Lane.

12. Therefore the proposal would have a harmful effect on highway safety. Consequently the proposal would be contrary to Core Strategy (CS) Policy CS6 and paragraph 109 of the National Planning Policy Framework (the Framework) which seek to ensure that development is designed to be safe and accessible to all and does not have an unacceptable impact on highway safety.

*Local character and appearance and built heritage*

13. The Council's concern relates to the effect of the proposed apartment building on local character and appearance, and on the setting of the Railway Station Building and footbridge (Grade II listed). Based on all I have seen and read, I have no reason to disagree with the Council's assessment.
14. Development along Shaw Lane and Station Road (including the part single and two storey Railway Station) is predominantly two storeys in scale, comprising detached and terraced properties. The local area does not have a definitive architectural style and includes some commercial uses. In addition there are some three storey buildings in wider Albrighton. However, owing to the predominant height and mass of properties that surround the appeal site, the local area has a domestic scale and relatively spacious character. This is a locally positive characteristic that is appreciable along Shaw Lane, Station Road, and the access to the Railway Station. The design and materials utilised in the Railway Station Building and footbridge and their early association with the wider railway network is of architectural and historic significance. Owing to the comparatively open nature of the appeal site, it makes a neutral contribution that preserves the significance of the heritage asset.
15. Although set away from development along Shaw Lane, the overall scale and mass of the apartment building would be an incongruous sight when seen from the access to the Railway Station, Station Road and its junction with Shaw Lane. Despite the materials, stepped height and articulated design proposed, from the noted vantage points the apartment building would be a dominant feature that would exceed the site boundaries. The bulk, scale and visual presence of the apartments would materially harm the domestic scale and relatively spacious character of the area. Furthermore the proposal would not represent good design, nor would it be sympathetic to local character or add to the overall quality of the area as sought by the Framework.
16. The heritage asset is set at a higher level than the appeal site and is intervened by a boundary fence and vegetation treatment. Nonetheless the apartments would be in close proximity and an imposing sight when viewed from the Railway Station and its vehicular access and parking area. Owing to the scale and mass of the apartments, the effect of the nearby caravans and intervening boundary on the heritage asset is not comparable. In addition, although the observer would be in motion, the apartments would be a dominant sight from the footway bridge. From the railway platforms, the apartments would not be particularly visible. However, the proximity, height and mass of the apartments in contrast to the modest scale of the Railway Station and footbridge would materially harm their significance.
17. Limited details have been provided regarding a similar scale of development approved near in a two-storey setting near a Grade II\* listed building. Moreover I must determine the appeal on its own individual merits. Owing to the scale of the apartments, the use of landscaping would not fully mitigate or prevent the harm identified to local character and appearance or to the

heritage asset. Nor does the status of the appeal site as a housing allocation in the SAMDev justify this harm.

18. The harm to the heritage asset would be less than substantial in the context of the Framework. Paragraph 196 of the Framework advises that less than substantial harm to a heritage asset should be weighed against the public benefits associated with the proposal. The development would contribute towards housing land supply (as anticipated by the SAMDev) and provide both short and long-term employment. It would also deliver vehicular parking spaces for railway users, public open space accessible to the wider community, increase natural surveillance, and involve the reuse of some contaminated and previously developed land. In addition, future occupants would be served by sustainable means of transport and have access to nearby services and facilities. Some public benefit would also arise from the delivery of energy efficient homes and biodiversity enhancements. Particularly important public benefits associated with the proposal is the delivery of affordable housing (in excess of policy requirements, and in the context of high housing need and funding secured from Homes England) and the delivery of extra care accommodation<sup>2</sup>.
19. However, I have identified harm in relation to highway safety and local character and appearance. Furthermore, the proposal would result in less than substantial harm to the significance of the Railway Station and footbridge. The Planning (Listed Buildings and Conservation Areas) Act 1990 is clear that heritage asset harm should be given considerable importance and weight, whilst the Framework sets out that great weight should be afforded to the conservation of an asset, irrespective of whether the harm is less than substantial.
20. I have concerns that using planning conditions to secure affordable housing would be contrary to the Planning Practice Guidance. Furthermore, a compelling case has not been made to demonstrate that there would be sufficient legal certainty to transfer the properties to an affordable housing provider and secure affordable housing in perpetuity. In any event, the totality of harm identified above would outweigh the combined public benefits associated with the proposal, including its provision of extra care homes and affordable housing. On this basis the appeal must fail.

#### *Other matters*

21. Concerns have been raised regarding a number of other matters, including flooding. However, as I am dismissing the appeal on the above cited grounds it is not necessary that I consider the other matters raised in my decision.

#### **Conclusion**

22. For the reasons given above, the proposal would not accord with the development plan when taken as a whole and no considerations are before me that would alter this finding. As such, the appeal is dismissed.

*B Bowker*

INSPECTOR

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<sup>2</sup> Particularly in the light of the Planning Practice Guidance section on 'Housing for older and disabled people' and local evidence of need.

## **APPEARANCES**

### **FOR THE APPELLANTS:**

Clive Jessup	Appellant
Thea Osmund-Smith	Counsel
Andy Williams	Planning Agent
Steve Faizey	Principal Architect
David Burton-Pye	Historic Environment Consultant
Phillip Taylor	Highway Consultant
Tim Leach	Director at Walkdeck Consulting
Andrea Martin	Senior Development Manager at The Wreckin Housing Trust
Matt Beckley	Client Project Manager at the Wreckin Housing Trust

### **FOR THE LOCAL PLANNING AUTHORITY:**

Tim Rogers	Area Planning Manager
Emma Bailey	Technical Specialist Planning Officer
Becky Jones	Senior Conservation and Design Officer

### **INTERESTED PARTIES:**

Peter Collins	Local resident and member of Albrighton Development Action Group (ADAG)
Peter Woodman	Chair of Albrighton Parish Council and ADAG
Cllr Malcom Pate	Ward member
Amanda Skidmore	Headteacher of St Mary's CE Primary School
William Wilkinson	Local resident
Mark Yeonans	Manging Director at Boningale Homes Ltd
Pauline Hill	Chair of Governors at St Mary's CE Primary School
David Dale	Local resident

**EVIDENCE SUBMITTED AT THE HEARING:**

- 1) Extract from section 19 report.
- 2) ADAG submission in respect of the appeal.
- 3) Submissions on behalf of the appellant.
- 4) Place Plan for Albrighton & surrounding area.
- 5) Planning Practice Guidance section regarding housing for older and disabled people.
- 6) Appellants' comments on the Council's suggested conditions.
- 7) Severn Trent email response to developer enquiry.

**EVIDENCE SUBMITTED AFTER THE HEARING:**

- 1) Email from Albrighton Parish Council, including correspondence from Severn Trent Water and response from the appellants, including signed SoCG with Severn Trent Water.

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