



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

Date: Thursday, 18 April 2019

**Committee:**  
**North Planning Committee**

**Date:** Tuesday, 30 April 2019

**Time:** 2.00 pm

**Venue:** Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,  
Shropshire, SY2 6ND

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

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

**Members of the Committee**

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

**Substitute Members of the Committee**

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

Your Committee Officer is:

**Emily Marshall** Committee Officer

Tel: 01743 257717

Email: [emily.marshall@shropshire.gov.uk](mailto:emily.marshall@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes

To confirm the Minutes of the meeting of the North Planning Committee held on 2<sup>nd</sup> April 2019 – To Follow.

Contact: Emily Marshall on 01743 257717

## 3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 2.00 p.m. on Monday, 29<sup>th</sup> April 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 The Lodge, Llanymynech, Shropshire - 18/02584/FUL (Pages 1 - 16)

Erection of replacement dwelling following demolition of existing building.

## 6 Proposed Dwelling East of Lea Hall Farm, Lee, Ellesmere - 19/01010/FUL (Pages 17 - 34)

Erection of a detached dwelling.

## 7 Black Country Metal Works Ltd, Whitehall Farm, Queens Head, Oswestry - 18/02657/FUL (Pages 35 - 78)

Application under Section 73A of the Town Country Planning Act 1990 (as amended) for regularisation of extensions to existing buildings together with lawful uses relating to a mixed use rural enterprise (A1, A3, B1, B2 and B8); improvements to existing vehicular access including creation of visibility splay; change of use of land to sculpture park and car parking areas.

## 8 Appeals and Appeal Decisions (Pages 79 - 98)

## 9 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday, 28<sup>th</sup> May 2019 in the Shrewsbury Room, Shirehall, Shrewsbury.



Committee and Date  
 North Planning Committee  
 30<sup>th</sup> April 2019

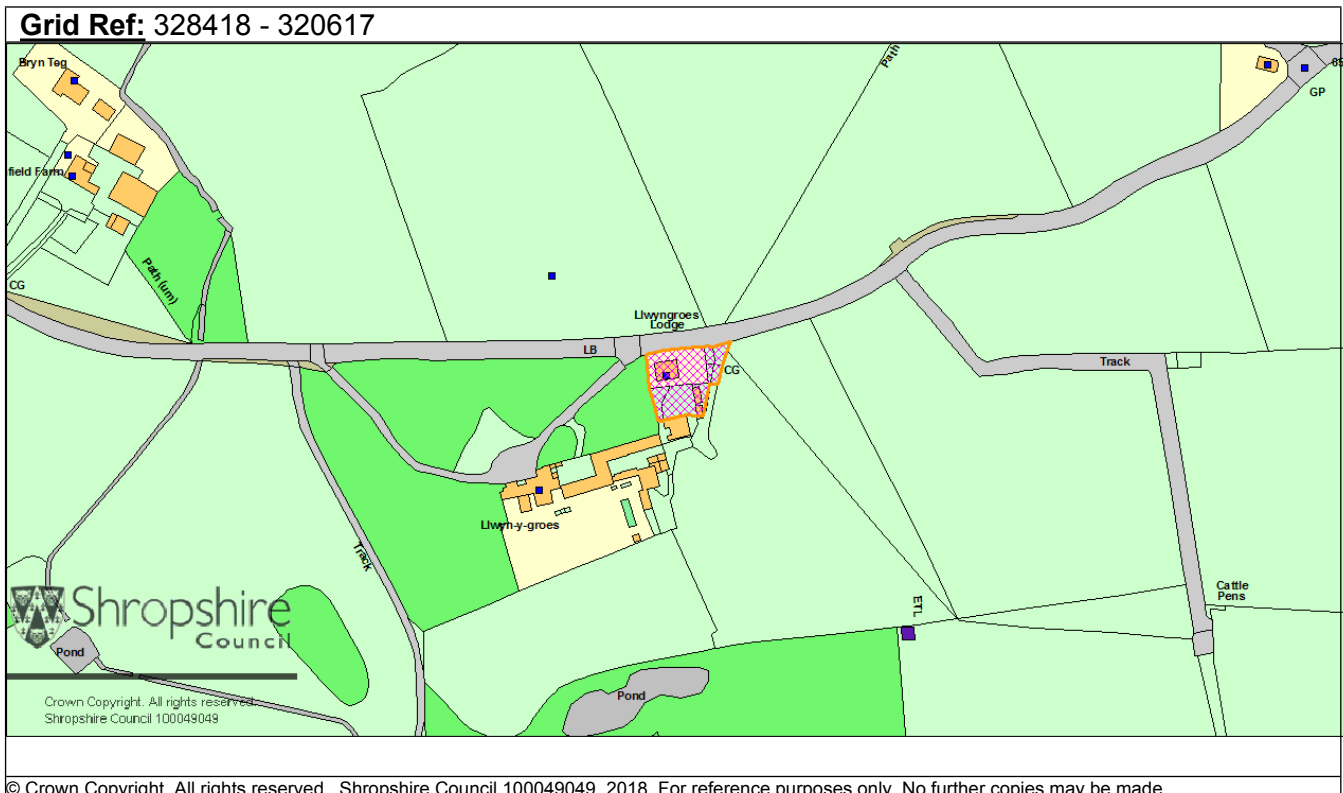
Item  
**5**  
 Public

## 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> 18/02584/FUL	<b>Parish:</b>	Llanymynech And Pant
<b>Proposal:</b> Erection of replacement dwelling following demolition of existing building		
<b>Site Address:</b> The Lodge Llanymynech Shropshire SY22 6LQ		
<b>Applicant:</b> Mr M Gorden		
<b>Case Officer:</b> Ollie Thomas	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	



**Recommendation:- Approval subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application is seeking full planning permission for the erection of a replacement dwelling, following demolition of an existing building, known as The Lodge, to the east of Llanymynech.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site concerns an existing residential dwelling and its curtilage, located roughly 1.5Km east of Llanymynech along the B4398, leading to Knockin. The existing single storey dwelling, sits forward in a modest plot, with its access off the highway to the east of the plot, which serves both the dwelling and a number of agricultural buildings further beyond, to the south. The dwelling has a prominent position along the highway when travelling westwards, due to the lack of any substantial boundary treatments. However, to the east lies a mature mixed hedgerow.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have objected to the scheme, contrary to the Officers recommendation. Despite their comments raising no material considerations, in consultation with the Chair and Vice Chair of the planning committee, it was decided that the application be decided at committee, owing to Officer recommendation and consultee responses which on this occasion are considered significant material considerations.

### 4.0 Community Representations

#### 4.1 - Consultee Comments

##### 4.1.1 SC Affordable Housing – No contribution required.

If this is a replacement dwelling then no affordable housing contribution will be payable.

##### 4.1.2 SC Drainage (SuDS) – Additional information required.

Part of the new dwelling is in Flood Zone 2. As this is a single dwelling, a simple Flood Risk Assessment should be submitted for approval prior to the determination.

##### 4.1.3 SC Rights of Way – No objections / comments made.

##### 4.1.4 SC Highways Authority – No objection subject to conditions.

The proposal is in context a like for like development with the number of residential units not changing. The proposal is therefore considered to raise no highway concerns in principle.

It is noted however, that the layout of the internal driveway is to be revised. The depth of the drive to the front of the new garage is considered to be restrictive.

#### **4.1.5 SC Conservation – Object – 29/10/2018**

Additional information has been providing in the form of a Heritage Impact Assessment. The report concludes based on evidence of the change of ownership of the lodge pre-1969, that the building cannot be considered to be curtilage listed. From the additional evidence provided this appears to be the correct conclusion. However, the building is still of some minor historic merit as outline the report and this requires consideration in the planning process. It is noted that no justification for the demolition of the building has been provided in the form of structural surveys. Therefore, it has not been evidenced that the existing building cannot be reused and modestly extended to meet the required needs. It is also noted that the proposed replacement dwelling is a two storey dwelling with attached garage, of significantly greater scale than the existing building. The proposed dwelling does not appear to reference the style or proportions of the existing dwelling and as such does not represent a sympathetic replacement in terms of size, mass, character and appearance for the original building.

#### **Object – 16/08/2018**

The application in its current form is lacking in sufficient detail to make an informed decision on the proposal. Without sufficient justification it is highly unlikely that the demolition of this building would be acceptable.

The application seeks demolition of this curtilage listed building, a listed building consent application has not been submitted and the current planning application contains no details about the existing building, design and access statement or heritage statement or any structural survey to justify the proposed demolition.

#### **4.1.6 SC Ecology – No objection subject to conditions – 26/03/2019**

Following the submission of the Bat and Nesting Bird Assessment (Star Ecology, March 2019), the level of survey work is considered acceptable.

#### **Additional information required – 08/11/2018**

The application site meets the trigger point for requiring a bat survey since it involved modification, conversion, demolition or removal of building and structures (especially roof voids) involving the following: Pre-1960 detached buildings and structures within 200m of woodland and/or water.

#### **4.1.7 Llanymynech and Pant Parish Council – Object**

The Parish Council object to this application for demolition of the existing building as this was the Lodge to Lwyn-y-Groes Hall and is therefore within the curtilage of the listed building. The barns at the rear of the Lodge are also included in the listing.

## **4.2 - Public Comments**

**4.2.1** The application was publicised by way of a Site Notice, posted on the 7<sup>th</sup> August 2018, to which 2 objection comments were received, with their material considerations being summarised as follows;

- Size and scale of dwelling is not sympathetic to original dwelling.
- The loss of the original dwelling would impact on the Grade II listed Hall.
- There are bats, a European Protected Species, known in the surrounding area, whereby this development will disturb or harm them.
- Application contains inaccuracies in regards to the occupation of the building – i.e. it has not been vacant for time specified within the submission docs.
- The loss of this building will impact on the wider setting and historic character.

## **5.0 THE MAIN ISSUES**

**Principle of development**  
**Design, scale and character**  
**Impact on amenities**  
**Highways and access matters**  
**Flooding and drainage matters**  
**Impact on designated heritage asset**  
**Ecology matters.**

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

**6.1.1** The application site forms an existing residential dwelling, set relatively isolated along the B4398, Llanymynech to Llwyntidman Junction. The dwelling lies directly to the south of the highway, within open countryside and surrounded by agricultural land. Llwyn-y-Groes Lodge, a Grade II listed building, lies some 60m south west, otherwise there are no other neighbouring properties. As a result of its rural setting and not forming part of a recognised settlement, the dwelling sits within open countryside, for policy purposes, where all new development is strictly controlled so as to maintain and protect the character and vitality of the countryside.

**6.1.2** However, in recognition that the application building is in continued residential occupation, the local plan supports the replacement of a dwelling whereby the dwelling to be replaced is a permanent structure. The replacement dwelling should not be materially larger and occupy the same the footprint, unless it can be demonstrated why this should not be the case.

**6.1.3** The existing building is of permanent structure and dating back to 1909. The Type and Affordability of Housing SPD outlines the council's approach to replacement dwellings and this includes that rural replacement dwellings will only be permitted where the existing building had established and continuing residential use rights and has not been abandoned. The following criteria are also applied for the

consideration of replacement dwellings;

- The visual impact of the replacement dwelling on its surroundings and the need to respect local character, taking account of bulk, scale, height and external appearance.
- Sympathetic to the size, mass, character and appearance of the original building with the dwelling ordinarily sited in the same position as the original dwelling.
- Consideration of housing types and tenures in the local area and the need to maintain a supply of smaller and less expensive properties.
- Permitted development rights will generally be removed from replacement dwellings in rural areas.

**6.1.4** The existing single storey building has been unsympathetically extended in the past, of large scale when considered proportionately. The existing dwelling has the appearance of a simple agricultural labourer's cottage with no features of particular architectural merit or design value. The existing dwelling has an approximate footprint of 90sqm and single storey in height.

**6.1.5** Whilst the replacement dwelling will be larger, with an additional 44sqm of footprint, measuring an approx. total of 134sqm, the applicant's needs are that the dwelling needs to be fully wheelchair accessible, with the dwelling housing both the applicant and his carer – this has been supported through Medical Reports. On this occasion, the substantiated exceptional circumstances of the applicant are able to justify exceeding beyond the requirements laid out within the SPD, whereby the dwelling, since submission, has been reduced so as to provide a dwelling of floorarea necessary to meet the applicants needs and no more. The enlargement is necessary due to requiring wider corridors, wider doorways and the installation of a lift, as the applicant is confined to a wheelchair.

**6.1.6** On the above basis, the principle of development is both established and supported.

## **6.2 Design, scale and character**

**6.2.1** The proposed dwelling is a two storey dwelling, with low eaves and low ridge line. From the front elevation, the dwelling has a traditional and local vernacular with a local stone dwarf wall, external chimney and window headers with an exposed timber frame pitched porch. Whilst from the rear, the appearance is more contemporary with large glazing sections, a catslide roof with dormers and a Juliette balcony serving the first floor apex glazed opening.

**6.2.2** Also proposed is a detached garage/car porch, which whilst detached will be linked to the main dwelling through a short, covered walkway, so as to allow a covered passage for wheelchair use, sheltered from inclement weather. This linked section is basic in construction and appearance, remaining a simple open frame under a slate roof to reflect the rest of the buildings on site, but enabling visuals through the built form, providing the appearance of a detached structure.

- 6.2.3** The proposed dwelling occupies a slightly set back footprint to the original dwelling; however, this is to enable adequate manoeuvrability and accessibility to the proposed garage/car port. Setting the dwelling slightly back from the highway edge will aid in softening the dwellings impact, further supported by the change in levels from the highway and proposed dwelling – the proposed sits lower, therefore resulting in a reduced impact from the two storey height of the dwelling.
- 6.2.4** It is acknowledged that the replacement dwelling has little sympathy to the original character and appearance; however, the existing dwelling is of little architectural or design merit, whereby the existing unsympathetic flat roofed extension has resulted in an overall appearance that makes no positive contribution to its landscape. Whereby, the proposed dwelling, of local vernacular, will result in no adverse impact on the local character.
- 6.3 Impact on amenity**
- 6.3.1** As mentioned, the only neighbouring property is the grade II listed Llwyn-y-Groes Hall to the south west; however, there is no intervisibility between the two due to the thick mixed woodland surrounding the Hall. As a result, there will be no adverse impacts on residential amenity. And with the dwelling providing no adverse impact on the local character, this in-turn results in there being no impact on the street scene.
- 6.4 Highways and access matters**
- 6.4.1** The proposal is to utilise the existing access off the highway to the east of the site, with the existing parking and turning area being enlarged so as to accommodate more parking and to allow adequate turning into the garage. The proposal will not provide any significant increase in vehicle movements and the proposal is therefore considered acceptable from a highways perspective.
- 6.5 Flooding and drainage matters**
- 6.5.1** The site lies in Flood Zone 2, with Flood Zone 3 falling just short of the site area. The Drainage engineer has requested a Flood Risk Assessment; however, the case Officer felt this unnecessary and unreasonable as the proposal is for a replacement dwelling, whereby the ordinary principle of development is not up for consideration. Instead, the principle of development is more so established on the replacement dwellings ability to sympathise against the original dwelling and within its setting, as only those properties in continued residence are considered. Whilst it is noted that the development type is considered more vulnerable, the principle of residential development in this location has already been established by the presence of an existing dwelling. There will be slightly more laid hardstanding due to the enlarged parking and turning area; however, the proposed dwelling is to provide all bedrooms at first floor.
- 6.5.2** The application form provides that foul water will be disposed of into an existing septic tank that served the original dwelling, whereas the surface water will be directed into soakaways. Whilst both these arrangements are considered appropriate, the drainage engineer has requested a scheme for both foul and surface water, prior to any development commencing.



## **6.6 Impact on designated heritage asset**

**6.6.1** The proposed development has the potential to impact upon the setting of a Grade II listed building. The proposal therefore has to be considered against local policies CS6 and Cs17 of the Core Strategy, MD2 and MD13 of the SAMDev Plan and with national policies and guidance including PPS5 Historic Environment Planning Practice Guide and Section 16 of the NPPF. Special regard has to be given to the desirability of preserving the listed building and its setting, or any features of special architectural or historic interest which it possesses as required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**6.6.2** The existing Lodge was built to the east of the listed Hall and behind the thick wooded area, resulting in there being no visibility between the Hall and the Lodge – this still remains. It is therefore considered that there will be no impact or harm on the setting or character of the Hall as a result of this proposal.

**6.6.3** The Parish Council have objected to the scheme on the basis of the original dwelling being listed. As it has been further evidenced and agreed that the building is not listed, these comments are not considered material to the proposal.

## **6.7 Ecology matters**

**6.7.1** The application site meets the trigger point for requiring a bat survey, subsequent to validation a Preliminary Bat and Nesting Bird Assessment (Star Ecology, March 2019) in which no nesting birds were found or on within the dwelling and that the house does not provide bat roost habitat, nor do bats impose a constraint on the proposed development. The council's Ecologist agrees with these findings and content that the application will not cause any harm or disturbance to any protected species, subject to biodiversity enhancements being conditioned.

## **7.0 CONCLUSION**

The proposed replacement dwelling is considered acceptable, the new dwelling is larger than that is being replaced and on a slightly altered footprint; however, the applicant is able to evidence exceptional circumstances for the enlarged dwelling, with the set-back footprint providing an overall betterment to the manoeuvrability of the site and enabling for visual improvements to the street scene. The proposed layout, appearance and scale of the replacement dwelling is considered acceptable to reflect the character of this rural area and will provide an improved sustainable rural dwelling. The dwelling will not result in any detrimental impact on neighbouring properties from either overlooking or loss of light, cause an overbearing impact or result in loss of light. The existing access and parking area is adequate to prevent any highway impact, whilst adequate foul and surface water drainage can be accommodated on the site. The proposal is considered compliant with the Local Development Plan and it is therefore recommended that permission be GRANTED, subject to conditions.

## **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:**

National Planning Policy Framework

#### **Core Strategy and SAMDev Policies:**

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks#

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7A - Managing Housing Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S14 – Oswestry

#### **Supplementary Planning Guidance:**

SPD Type and Affordability of Housing

### RELEVANT PLANNING HISTORY:

OS/07/15250/FUL Change of use of agricultural building to one dwelling and ancillary domestic accommodation GRANT 19th March 2008

OS/07/15284/LBC Change of use of agricultural building to one dwelling and ancillary domestic accommodation GRANT 19th March 2008

10/02277/DIS Discharge of Conditions 5, 6, 11, and 13 relating to Planning Permission 07/15250/FUL DISAPP 18th June 2010

10/02583/DIS Discharge of Conditions 2 and 4 relating to Planning Permission 07/15284/LBC DISAPP 18th June 2010

10/03335/FUL Renewal of extant planning permission Ref. 07/15250 to change the use of agricultural building to one dwelling and ancillary domestic accommodation GRANT 7th January 2011

11/00191/LBC Renewal of extant planning permission Ref. 07/15284 to change the use of agricultural building to one dwelling and ancillary domestic accommodation GRLBC 28th January 2011

16/00811/FUL Erection of two storey extension linking to existing loft WDN 11th May 2016

17/02263/FUL Change of use of land to caravan park for touring caravans, formation of access and installation of septic tank and soakaway WDN 23rd April 2018

18/02584/FUL Erection of replacement dwelling following demolition of existing building PCO

18/04359/FUL Erection of agricultural building for stock housing and implement/fodder storage to replace demolished buildings PCO

#### 11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder)
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Cllr G. Butler
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Local Member
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Cllr Matt Lee
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Appendices APPENDIX 1 - Conditions
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## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory.

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

4. No development shall take place, including any works of demolition, 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
- a traffic management and hgv routing plan and local community protocol.

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

5. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs

6. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery, to include the porch and covered walkway, shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details.

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

7. Prior to the relevant works, details of the roof construction including details of eaves, undercloaks ridges, valleys and verges shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

8. No development shall take place until a scheme of the surface and foul 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.

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

9. The revised internal site access arrangement, parking and turning areas shall be satisfactorily completed and laid out in accordance with the Block Plan (Drawing No. 488/01 Rev B) prior to the replacement dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety

10. Prior to first occupation / use of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 1 artificial nest, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 175 of the NPPF.

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

11. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To minimise disturbance to bats, which are European Protected Species.

12. Vehicular and pedestrian access to the adjoining highway shall be limited to the existing access shown on the Block Plan (Drawing No. 488/01 Rev B).

Reason: To limit the number of accesses onto the highway in the interests of highway safety

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2, Part 1, Classes A, B, C, D & E shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development in consideration of the existing on site, this approval being for a replacement dwelling on site.

### **Informatives**

1. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

2. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation.

3. 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.

4. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations

approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.

#### 5. Nesting birds informative

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, scrub removal and/or conversion, renovation and demolition work in buildings 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 and buildings for active bird nests should be carried out. If vegetation or buildings 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. Only if there are no active nests present should work be allowed to commence.

If during construction birds gain access to the building and begin nesting, work must cease until the young birds have fledged.

#### General site informative for wildlife protection

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).

#### Landscaping informative

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

6. It is recommended that the applicant investigate ways of incorporating techniques of 'Sustainable Urban Drainage' into this development. These will help to minimise the impact of the development with features such as porous parking, detention ponds, grass swales and infiltration trenches. This will maintain the recharge of groundwater resources, reduce large fluctuations in river flows during rainfall and stop pollutants from road runoff from entering watercourses. Further information can be obtained from the Environment Agency.

7. - Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or 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.

- Mud on highway

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.

-



Committee and Date  
 North Planning Committee  
 30<sup>th</sup> April 2019

Item  
**6**  
 Public

## 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> 19/01010/FUL	<b>Parish:</b>	Ellesmere Rural
<b>Proposal:</b> Erection of a detached dwelling		
<b>Site Address:</b> Proposed Dwelling East of Lea Hall Farm Lee Ellesmere Shropshire		
<b>Applicant:</b> Mr & Mrs Hearn		
<b>Case Officer:</b> Ollie Thomas	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

**Grid Ref:** 340544 - 332394



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**Recommendation:- Refuse.**

## Recommended Reasons for refusal

1. The proposed development site, in replacement of an existing agricultural building, is considered to be located on the edge of the settlement of Lee, a designated Community Cluster as found at S8.2(iv) of the SAMDev Plan, whereby the type and form of development fails to comply with the specific settlement policy requirements, in that only limited infill and conversions will be acceptable. The proposed development cannot be considered as infill development due to its location with any residential development in this location having an adverse impact upon the immediate and wider character and setting of both the settlement and landscape. The proposed development is therefore considered as representing unsustainable development that fails to comply with local policies CS1, CS4, CS6 and CS17 of the Core Strategy, MD1, MD2, MD3, MD12 and MD13 of the SAMDev Plan and also the main aims and objectives of the National Planning Policy Framework.

2. The application site lies adjacent to, and forms part of, the historic farmstead to Lea Hall Farm, of which lies a Grade II listed barn and other non-designated heritage assets. The accompanying Heritage Impact Assessment (Berrys, Feb 2019) is not concurred with, in which the Local Planning Authority consider the proposed development will amount to less than substantial harm to the significance of these assets, in that it does not preserve these assets or their setting, whereby there are no public benefits resultant of the scheme to be weighted against this harm. The proposed development would result in indirect harm to the significance of the heritage assets through inappropriate development within their setting. Accordingly, therefore, the application is considered contrary to adopted planning policies CS6 and CS17 of the Shropshire Core Strategy; MD2 and MD13 of Shropshire SAMDev Plan, Section 16 of the NPPF and Section 66 of the Town and Planning (Listed Buildings and Conservation Areas) Act 1990.

3. It is considered that the overall design of the proposal is inappropriate within the site context. This, coupled with the siting of the structure incongruous to the existing built form and historic farmstead, would result in a building that would be visually detrimental to the character of the surrounding landscape and built environment. The development fails to comply with adopted planning policies CS5, CS6 and CS17 of the Shropshire Core Strategy; MD2 of the Site Allocations and Management of Development (SAMDev) Plan; the Council's adopted SPD of the Type and Affordability of Housing and the requirements of the National Planning Policy Framework, all aimed at securing good design that responds to local context and character and does not adversely affect visual amenity.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application is seeking full planning permission for the erection of single detached dwelling and detached garaging, following the removal of an existing agricultural building and forming part of Lea Hall Farm, lying to the east of the built farm complex.
- 1.2 This application site has been the subject of two previous applications, for the same proposal, but previously submitted in Outline, planning refs: 18/00023/OUT which was refused under delegated powers and 18/05140/OUT which was withdrawn at the North Planning Committee on the 5<sup>th</sup> February 2019.

- 1.3** The applicants have also recently sought permission for a similar scheme on land within the private garden space of the main farmhouse, this too was withdrawn due to the application being sought in Outline, yet due to the proximity of designated heritage assets, additional supporting documents were requested in accordance with Part 3 of the Town and Country Planning (Development Management Procedure) Order 2015, but was not forthcoming; planning ref: 18/03333/OUT.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1** The application site lies to the east of Lea Hall Farm and in replacement of an existing modern portal framed agricultural building, located on the edge of the rural settlement of Lee, south of Ellesmere. The site is directly adjoined by the associated farmstead – part of which is Grade II listed – to the west, with open and undulating farming land on all its other boundaries, with access to the site provided through an existing agricultural access directly off the A528, an unclassified derestricted section of highway leading from Lee to Spunhill. The site is enclosed on its western and southern boundaries by existing fencing that runs tight around the existing building, with the land sloping downhill beyond.

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

- 3.1** The Local Ward Member requested committee determination within their 21 day consultation period, raising material considerations. In further consultation with the Chair and Vice Chair of the planning committee, it was resolved that the application be considered at committee owing to the application sites planning history and the material issues raised.

## **4.0 Community Representations**

### **4.1 - Consultee Comments**

#### **4.1.1 SC Drainage (SuDS) – No objections subject to informative.**

#### **4.1.2 SC Affordable Housing – No contribution required.**

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

#### **4.1.3 SC Highways – No objections subject to conditions.**

The access and visibility splays details are considered to be acceptable for the prevailing highway conditions and proposed development for a single dwelling.

#### **4.1.4 SC Regulatory Services – No objections.**

Historical maps identify an old gravel pit (circa 1901) which suggests quarrying may have already finished – it was still evident in 1926 but by 1975 it was gone. While it can be assumed that the former gravel pit has been filled in, given how long ago this occurred (over 40 years), Regulatory Services do not consider that the infilling of the former gravel pit is likely to have an impact on the proposed development site.

#### **4.1.5 SC Ecology – No objections subject to conditions.**

This application has been considered under the Habitats Regulations Assessment process in order to satisfy the Local Authority duty to adhere to The Conservation of Species and Habitats Regulations 2010. A Habitats Regulations Assessment (HRA) matrix is included at the end of this response – Appendix 2. The HRA matrix must be included in the Planning Officers report for the application and must be discussed and minuted at any committee at which the planning application is presented.

Provided that the works are carried out as proposed, Shropshire Council has not identified any potential effect pathway by which the proposed activity might impact upon any European designated sites.

#### **4.1.6 SC Conservation – Object.**

The application cannot be supported as it is considered that it will cause less than substantial harm to the significance of the heritage assets on the site and therefore conflicts with both local and national policies in that it does not preserve the designated heritage asset and non-designated heritage assets nor their setting. This is a requirement of Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990.

There is no clear and convincing justification that the proposed development will sustain and enhance the significance of the heritage assets and that the proposed development within their setting will not cause harm to their significance. This identified harm the great weight that is required when considered the harm, in respect of designated heritage assets, should be weighed against the public benefits of the proposal (of which there are none in this case).

With regards to the scale of harm to the significance of the non-designated heritage assets identified (historic farmstead). The fact that the proposed development will cause indirect harm to the significance of the non-designated heritage assets through inappropriate development within their setting, should also weigh heavily when applying the balanced judgements required in the NPPF.

#### **4.1.7 Ellesmere Rural Parish Council – No response received.**

The Parish Council were consulted on the application on the 11<sup>th</sup> March 2019, with a reply-by date 31 days following. At the time of publishing this report no response has been received.

#### **4.1.8 Cllr Brian Williams (Local Ward Member for the Meres Division) – Committee request – 12/03/2019.**

“I request a reference to the North Planning Committee for a decision for all the reasons which were valid in the recently withdrawn outline application, principally the consideration whether this application lies in the community of Lee rather than in open countryside and whether the heritage considerations are relevant or override the improvement of the site in relation to the listed barn.”

#### **4.2 - Public Comments**

##### **4.2.1** The application was publicised by way of Site Notice erected on the 18<sup>th</sup> March 2019 and neighbour notifications to two neighbouring properties – Oakley Barn and Lee Farm.

At the time of publishing, no public representations have been received.

#### **5.0 THE MAIN ISSUES**

**Principle of development**  
**Siting, scale and design of structure**  
**Impact on amenities**  
**Highways and access matters**  
**Ecology and biodiversity matters**  
**Impact on designated heritage assets**  
**Drainage matters.**

#### **6.0 OFFICER APPRAISAL**

##### **6.1 Principle of development**

##### **6.1.1** Since the determination of those two previous applications (refs: 18/00023/OUT & 18/05140/OUT) on this site, there have been no substantive changes to the Local Development Plan. However, the Council have published their updated ‘Five Year Housing Land Supply Statement’ (21<sup>st</sup> March 2019), confirming the Council is able to evidence a continued healthy and robust delivery of housing supply, across the county – 6.78 years. Furthermore, the Councils Local Plan Review has since closed on its public consultation for ‘The Preferred Sites Consultation Document’; however, due to the continued primacy of this Review, no weight can be attached to this Review.

##### **6.1.2** Similarly to planning ref: 18/05140/OUT, there remains no Planning Statement, or similar, to suggest why the Officers judgement made on those previous refused and withdrawn applications was inaccurate or as to how the proposal is compliant with the Local Development Plan. Nonetheless, in response to the proximity of designated heritage assets, the application is accompanied by a Heritage Impact Assessment (Berrys, February 2019). As a result, and based on the above highlighted lack of any change in policy, this applications assessment and determination of compliance will remain somewhat similar.

##### **6.1.3** The application site forms a parcel of land, currently occupied by an agricultural building, in association with the adjoining Lea Hall farmstead, neighboured most

closely with its farm complex of traditional (Grade II listed) and more modern agricultural buildings. For this purpose and in accordance with the NPPF, this application is not to be considered as previously developed land (Brownfield land), as provided within the NPPF Annex 2: Glossary: “Previously developed land... excludes land that is or was last occupied by agricultural or forestry buildings...”

**6.1.4** Despite there being no doubt that Lee Hall farmhouse falls within the settlement confines of Lee (undefined), with Lee constituting a relatively close-knit small cluster of housing, in the immediate context, around the highway junction of C1031/25 and U1302/10. Albeit, there are surrounding small groups of houses just outside of this central cluster, namely to the north-west of Lee, but surrounding this application site, the wider farmstead clearly represents the edge of the settlement in an easterly direction. Furthermore, with there being an agricultural yard and barn complex between the application site and the main cluster of housing, it is questionable as to whether the site lies actually within Lee, as policy CS4 would require. Instead it is reasonable to provide that the application site constitutes an edge of settlement location, equally resisted for new housing within CS4, so as to prevent fragmented development.

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

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

**6.1.6** Lee, like many small rural settlements, has been identified without a development boundary defining its confines, as such each development site is determined on the existing built form of the settlement and the relationship the site has with the existing pattern and built form.

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

**6.1.8** Despite there being no current adopted definition of ‘infill’, it is worth noting that the current Local Plan Review intends on providing its own definition: *“An infill site*



*consists of land with built development on at least two sides, which is also clearly within the built form of a settlement. It should not however result in a cramped form of development.”* (6.22, Consultation on Preferred Scale and Distribution of Development). Taking the two definitions of infill, it is evident that this application site is unable to conform with either, even in their loosest context.

- 6.1.9** It is recognised that in order to achieve Shropshire’s growth strategy (economic and housing), and in accordance with the NPPF, the rural areas are required a degree of ‘rebalancing’ through focusing new development in the designated areas (Community Hubs and Clusters) and through the overarching presumption in favour of sustainable development. However, Shropshire is able to demonstrate a robust housing land supply of 6.78 years, consequently local planning policies remain up-to-date and contribute to achieving sustainable development, through development of the right type of housing, in the right location and within the right timescales.
- 6.1.10** Additionally, the Councils most recent monitoring report – 5 Year Housing Land Supply Statement, March 2019 – provides that Lee (and the remainder of the Cluster) has had 5 completions, with an additional 20 sites with planning permission: totalling 25 deliverable permissions. The Clusters housing guideline figure provides an additional 20 new dwellings through the plan period (2006 – 2026). Whilst it is acknowledged that the housing figure is only a guideline, on those occasions where the number of commitments surpasses this figure, further consideration is needed as development going beyond by too great a degree could result in unsustainable development that stretches infrastructure and community goodwill towards breaking point.
- 6.1.11** Despite this application being for a single dwelling only, the increase must be considered cumulatively, Cluster wide, whereby the exceedance of 6 equates to a 30% increase on the housing guideline. To this end, the application must be determined on the basis of its benefits and impacts, against the presumption in favour of sustainable development. The benefits of this application are limited and would be apparent regardless of scale or location, providing limited social, economic and environmental benefits.
- 6.1.12** For the above reasons, the proposed development of a single detached dwelling is considered unsustainable, unable to comply with the Local Development plan and providing no considerable benefits across the strands of sustainability. The principle of development, therefore fails to be either established or supported.
- 6.1.13** It is worth noting that Lee, and the wider Cluster, has been removed from the Local Plan Partial Review as an identified settlement for additional housing. Instead the settlement will be in an area of open countryside, where new open market housing is somewhat resisted and strictly controlled. However, this Plan Review is still in its primacy and therefore cannot be attributed any significant weight.

## **6.2 Siting, scale and design of structure**

- 6.2.1** The proposal is to provide a single detached dwelling, sat relatively central within the plot, in replace of an existing modern portal framed agricultural building. The dwelling will sit on the north-south axis; however, slightly angled so as to maximise the views outwards to the south and east. A detached double-bay garage/car port

lies in the north-east corner of the site, served off the large parking and turning area.

**6.2.2** The proposed dwelling is traditionally styled, being of a storey and a half height, having a somewhat dormer appearance – but not in proportions, height to ridge is 7.35m. The dwelling will provide a moderately large 3 bedroom dwelling in a ‘L’ shape configuration, with a side flanked reduced ridge narrowed section. Built of facing brick under a clay tile roof, the overall appearance is inherently domestic in nature. Whereas, due to the sites location and surrounding development, it would have been expected that a dwelling of rural, semi-agricultural vernacular be provided. On this basis, the proposed dwelling is considered inappropriate in reflecting the sites character and setting.

**6.2.3** The proposed dwelling is considered proportionate to the plot and appropriate in appearance. However, the orientation of the dwelling, sitting parallel with the highway, but off-angle for both the plot and neighbouring agricultural buildings creates a haphazard visual aesthetic for both plan form and incongruous in its relations with the farmstead as whole. This is further compounded by the location of the proposed detached garage building, to which attention will be drawn due to its height and roof proportion which conflicts with the historic character of the site and due to it being sited forward of the principal building line.

### **6.3 Impact on amenities**

**6.3.1** The site has no adjoining residential amenities, with residential properties to the west, beyond the agricultural buildings and on the opposing side of the highway – all a considerable distance away. Resultantly, the proposed dwelling would have limited impact on residential amenities by virtue of separation distances and existing screening through vegetation and existing buildings.

**6.3.2** Whilst it is considered that the proposed dwelling would not appear overbearing, obtrusive or result in any adverse impacts on neighbouring residents, with the dwelling sited a sufficient distance away from the highway edge. The redevelopment of this site would result in the extension of residential development into the countryside where the development would harm the immediate rural context. And despite an appropriate landscaping scheme softening this harm, the presence of a residential dwelling and all associated domestic paraphernalia is still considered harmful to the setting and character of the countryside and wider rural landscape setting, that would alter, to its detriment, the existing characteristics of the wider settlement.

### **6.4 Highways and access matters**

**6.4.1** The application site is located on the eastern extremities of the settlement, with the access to the proposed new dwelling provided just west of an existing agricultural access point so as to achieve greater visibility, leading off the derestricted unclassified section of highway, U1302/ 10.

**6.4.2** The submitted plans show the proposed access arrangement and provision of visibility splays. The details of the visibility splays as dimensioned are considered to be acceptable for the local highway conditions. The proposed access layout is also considered to be acceptable to serve the proposed development. The internal layout as shown, provides an acceptable parking and turning arrangement.

## **6.5 Ecology and biodiversity matters**

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

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

**6.5.3** Following consultation with the Councils Ecologist, following this report is an Officer completed Habitats Regulations Assessment matrix – Appendix 1, as requested by the Ecology team.

## **6.6 Impact on designated heritage assets**

**6.6.1** The proposed development has the potential to impact upon a Grade II listed building and its setting. The proposal therefore has to be considered against both local and national policy and guidance, whereby special regard has to be given to the desirability of preserving the listed building and its setting, or any features of special architectural or historic interest, which is possesses as required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**6.6.2** Those buildings considered to be of value on the Lea Hall Farm site are the Grade II listed farm building, the farmhouse and associated historic outbuilding contained within the garden wall and the wall itself. All other building and structures within the farmstead are not considered to provide any enhancement to the setting of the heritage assets, indeed there are some which their removal would better reveal the significance of the heritage assets.

**6.6.3** As mentioned, accompanying this application is a Heritage Impact Assessment (Berrys, February 2019), which leads to the conclusion that the listed Grade II farm building should be considered for sensitive conversion before any new dwellings are considered within the hamlet. However, the Impact Assessment contained within is not concurred with as it is considered contradictory in its assessment made of the site and the buildings contained therein. The assessment also implies that the applicant wishes to build a house for themselves but have not considered the conversion of an existing building, as has been the case on or other sites in the hamlet.

**6.6.4** Whilst the removal of those remaining buildings and structures not considered to be heritage assets would provide an overall betterment to the setting and significance of those heritage assets. If they remain in agricultural use then this is expected in this rural farmstead location in the open countryside. However, the replacement of such a building in this location with a dwelling which has all its domestic detailing and paraphernalia, is considered to cause less than substantial harm to the significance of the heritage assets – the historic farmstead, Grade II listed farm building etc and their wider rural landscape setting.

## **6.7 Drainage matters**

**6.7.1** As provided within the accompanying Application Form, foul drainage is to be directed and disposed off via a newly installed package treatment plant, with surface water directed in to a soakaway. Both of these drainage measures are considered acceptable and appropriate for the scale and location of development.

## **7.0 CONCLUSION**

**7.1** The proposed development for the erection of a single detached dwelling, with detached garaging/car port, in replace of an existing agricultural building is unacceptable. The application sites holds an edge of settlement location, whilst failing to comply with the settlement specific policy requirements for Lee, S8.2(iv) of the SAMDev Plan. The site is visually separated from the main cluster of residential development through distance and agricultural buildings, being bounded by rolling open fields and having an inherent rural and open characteristic, whereby development of this site would result in domestic encroachment into the countryside.

**7.2** The orientation of the proposed dwelling fails to reflect the existing built pattern and form, whereby the dwelling would appear to conflict with and result in a unsympathetic visual appearance. With the design and style of this dwelling harmful to the rural setting of the countryside and altering the existing characteristics of the nearby settlement and historic farmstead.

**7.3** Despite the limited benefits attributed from the proposal, the negatives arisen from the proposals unsustainability, the harm to the setting and character of the surrounding environs and inability to comply with the Local Development and the main aims of the NPPF result in a proposed that is unable to weight in favour of approval. It is therefore recommended that permission be REFUSED.

## **8.0 Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

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

- ☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ☐ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication

of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

## **8.2 Human Rights**

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

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

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

## **8.3 Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

## **9.0 Financial Implications**

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

## **10. Background**

### Relevant Planning Policies

**Central Government Guidance:**  
National Planning Policy Framework

**Core Strategy and SAMDev Policies:**

CS1 - Strategic Approach  
 CS4 - Community Hubs and Community Clusters  
 CS5 - Countryside and Greenbelt  
 CS6 - Sustainable Design and Development Principles  
 CS11 - Type and Affordability of housing  
 CS17 - Environmental Networks  
 CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development  
 MD2 - Sustainable Design  
 MD3 - Managing Housing Development  
 MD7A - Managing Housing Development in the Countryside  
 MD12 - Natural Environment  
 MD13 - Historic Environment  
 Settlement: S8 – Ellesmere

**Supplementary Planning Documents:**

SPD Type and Affordability of Housing

**RELEVANT PLANNING HISTORY:**

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

18/05140/OUT Outline application for the erection of a dwelling and detached garage to include means of access (Resubmission) WDN 7th February 2019

19/01010/FUL Erection of a detached dwelling PDE

**11. Additional Information**

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder)
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Cllr G. Butler
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Local Member
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Cllr Brian Williams
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Appendices
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APPENDIX 1 - Habitats Regulations Assessment (HRA) Screening Matrix
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## APPENDIX 1 – Habitats Regulations Assessment (HRA) Screening Matrix

### 1.0 Introduction

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

This is a record of the Habitats Regulations Assessment (HRA) of the project at East Of Lea Hall Farm, Lee, Ellesmere, Shropshire (19/01010/FUL), undertaken by Shropshire Council as the Local Planning Authority. This HRA is required by Regulation 61 of the Conservation of Habitats and Species Regulations 2017, in accordance with the EC Habitats Directive (Council Directive 92/43/EEC) before the council, as the ‘competent authority’ under the Regulations, can grant planning permission for the project. In accordance with Government policy, the assessment is also made in relation to sites listed under the 1971 Ramsar convention.

Date of completion for the HRA screening matrix:

1st April 2019

HRA screening matrix completed by:

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

### 2.0 HRA Stage 1 – Screening

This stage of the process aims to identify the likely impacts of a project upon an international site, either alone or in combination with other plans and projects, and to consider if the impacts are likely to be significant. Following recent case law (*People Over Wind v Coillte Teoranta C-323/17*), any proposed mitigation measures to avoid or reduce adverse impacts are not taken into account in Stage 1. If such measures are required, then they will be considered in stage 2, Appropriate Assessment.

#### 2.1 Summary Table 1: Details of project

Name of plan or project	19/01010/FUL Proposed Dwelling East Of Lea Hall Farm, Lee, Ellesmere, Shropshire
Name and description of Natura 2000 site	<b>White Mere Midland Meres and Mosses Ramsar Phase 1</b> (31.97ha) is one of the richest of the North Shropshire meres for aquatic plants. It is included within the Ramsar Phase for its open water and carr habitats with the plant species <i>Carex elongata</i> and <i>Eleocharis acicularis</i>

**Clarepool Moss Midland Meres and Mosses Ramsar Phase 1**

(and part of West Midlands Mosses SAC) (15.62ha) is a basin mire which has developed, in part at least, as a quaking bog (Schwingmoor). It is included within the Ramsar Phase for its Open Water and Basin Mire habitats with the species Dotted Footman.

West Midland Mosses SAC (184.18ha) is a collection of sites which between them represent nationally important dystrophic water bodies, transition mires and quaking bogs.

Annex I Habitats that are a primary reason for selection of site:

- ☐ Natural dystrophic lakes and ponds
- ☐ Transition mires and quaking bogs

**Fenn`s, Whixall, Bettisfield, Wem and Cadney Mosses SAC and Midland Meres and Mosses Ramsar Phase 2**

(949.2ha) together form an outstanding example of lowland raised mire. The site as a whole supports a wide range of characteristic acid peat bog vegetation. The moss complex, which straddles the border between Shropshire, England and Clwyd, Wales, is one of the largest and most southerly raised mires in Britain.

Annex I Habitats that are a primary reason for selection of the SAC:

- ☐ Active raised bog.

Annex I Habitats present as a qualifying feature but not a primary reason for selection of the SAC:

- ☐ Degraded raised bogs still capable of natural regeneration

The site is included within the Ramsar Phase 2 due to its Raised Bog and Carr habitats with invertebrate assemblages and the plant species *polifolia*, *Dicranum undulatum* and *Sphagnum pulchrum*

**Brownheath Moss Midland Meres and Mosses Ramsar Phase 2**

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

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

**Sweat Mere and Crose Mere Midland Meres and Mosses**



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

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

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

**Midland Meres and Mosses (Ramsar phase 2)** Reasons for designation:

- ☐ **Criterion 1a.** A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog.
- ☐ **Criterion 2a.** Supports a number of rare plants associated with wetlands, including the nationally scarce cowbane *Cicuta virosa*, elongated sedge *Carex elongate* and bog rosemary *Andromeda polifolia*. Also present are the nationally scarce bryophytes *Dicranum undulatum*, *Dircranum affine* and *Sphagnum pulchrum*.
- ☐ **Criterion 2a.** Containing an assemblage of invertebrates, including several rare wetland species. There are 16 species of Red Data Book insect listed for the site including the following endangered species: the moth *Glyphipteryx lathamella*, the caddisfly *Hagenella clathrata* and the sawfly *Trichiosoma vitellinae*.

Description of the plan or project	Erection of a detached dwelling
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No projects or plans have been identified which could act in-combination with this project to cause likely significant effects on any of these sites.

## 2.2 Statement

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

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

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

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

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

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

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

## 3.0 Guidance on completing the HRA Screening Matrix

### The Habitats Regulations Assessment process

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test'. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the 'integrity test' need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A

competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

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

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

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

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

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

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

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

#### **Habitats Regulations Assessment Outcomes**

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

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

#### **Duty of the Local Planning Authority**

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

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Committee and Date  
 North Planning Committee  
 30<sup>th</sup> April 2019

Item  
**7**  
 Public

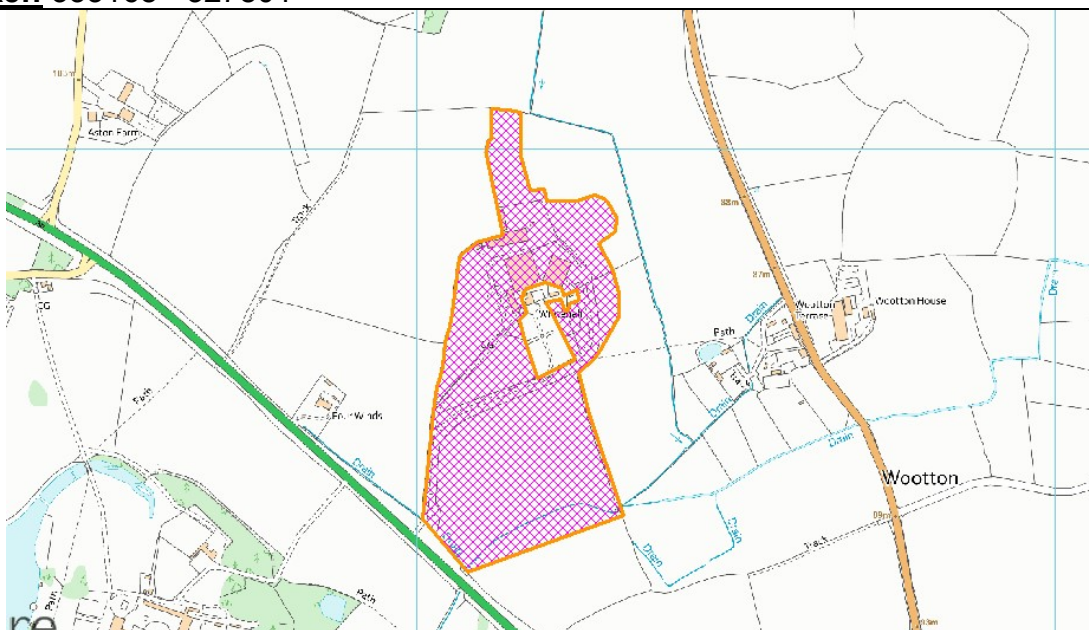
## Development Management Report

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> 18/02657/FUL	<b>Parish:</b> Oswestry Rural
<b>Proposal:</b> Application under Section 73A of the Town Country Planning Act 1990 (as amended) for regularisation of extensions to existing buildings together with lawful uses relating to a mixed use rural enterprise (A1, A3, B1, B2 and B8); improvements to existing vehicular access including creation of visibility splay; change of use of land to sculpture park and car parking areas	
<b>Site Address:</b> Black Country Metal Works Ltd Whitehall Farm Queens Head Oswestry Shropshire	
<b>Applicant:</b> Black Country Metal Works Limited	
<b>Case Officer:</b> Philip Mullineux	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>

**Grid Ref:** 333168 - 327801



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**Recommendation: Delegate to the Planning Services Manager for approval subject to the conditions as outlined in appendix one attached to this report and any modifications to these conditions as considered necessary by the Planning Services Manager.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 Application is made in 'FULL' under Section 73A of the Town Country Planning Act 1990 (as amended) for regularisation of extensions to existing buildings together with lawful uses relating to a mixed use rural enterprise (A1, A3, B1, B2 and B8); improvements to existing vehicular access including creation of visibility splay; change of use of land to sculpture park and car parking areas at the Black Country Metal Works Ltd, Whitehall Farm, Queens Head, Oswestry, SY11 4JH.
- 1.2 Information submitted in support of the application includes a planning statement, site location plan, block plan, statement of community involvement, elevation and floor plans of showrooms, storage space, distribution, a plan indicating building areas on site, landscape and visual impact assessment, noise assessment, land classification report, landscape strategy, highway report, highway and access plan, disabled access and highway plan, event traffic management plan, road safety audit, flood risk assessment, drainage report, ecology reports and business review. Further information clarification on aspects of the application were received during the application processing and this includes reference to drainage clarification, events traffic and parking management, a retail impact assessment and economic benefits report.
- 1.3 In consideration of the various pieces of further information received a full 21 days re-consultation on the application was carried out on 14<sup>th</sup> February 2019 and this gave all statutory consultees, the Parish Council and neighbours the opportunity to further comment on the application. Detail on this re-consultation was made available on the Council's application website.
- 1.4 The Planning Statement in support of the application refers to the proposal stating: *that the retrospective application under Section 73A of the Town Country Planning Act 1990 (as amended) is for the extension and alterations to existing lawful buildings with a series of lawful uses relating to a mixed use rural community focused enterprise (A1, A3, B1, B2 and B8) granted in accordance with application OS/09/15876/FUL to include improvements to an existing access and change of use of land (D2) to formalise Shropshire's only sculpture park.* The use of land and buildings within this description is described fully in this report. This application now seeks to regularise the current position on site without any additions at all. For the avoidance of doubt there are no new buildings proposed as part of this application.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The Black Country Metal Works Ltd also known as The British Ironworks in accordance with detail on the application form covers an area of 13.92 hectares

and is mainly grade 3 agricultural land in accordance with the agricultural land classification. (A detailed report on the agricultural land classification for the site has been submitted in support of the application and this provides an assessment of the land classification, the largest area of which falls into class 3a). The site is located approximately 3 miles to the east of Oswestry, accessed directly from the A5 public highway leading from Oswestry towards Queens Head. There are rural settlements in the surrounding area, these consist of West Felton approximately 1.5 miles south east of the site and Maesbury Marsh. Queens Head is the immediate and nearest settlement relating to the site. The British Ironwork Centre is located on the rural fringe of Oswestry. The settlement of Whittington is located just under two miles north of the site. Also alongside on opposite side of the A5 and near to the site is the Oswestry Golf Club, this is immediately south of the site.

2.2 The site is a former working farmstead which was known as 'Whitehall Farm'; a typical traditional Shropshire farmstead which still retains much of its original character in overall setting, and includes the two storey red brick farmhouse and its former farm buildings now in use as part of The Ironworks with other new buildings added to the site. The site is surrounded by open countryside which has other farmsteads and private dwellings dotted around in its rural landscape. The site is accessed via a private drive directly from the A5 public highway.

2.3 Planning permission was granted on 25th March 2009 (reference OS/09/15876/FUL), for the change of use of the traditional farm buildings to office and business suite, together with use of existing portal framed buildings for storage of trade only ironmongery, mail distribution, and alterations to provide office space. This permission established a B1, B2 and B8 use of the buildings and land within the approved red line. All of those buildings with the exception of the Dutch Barns form part of this current application. The Dutch Barns were later removed from the site and replacement buildings built in their place. (It has been established that this application as approved was also part retrospective). This report is on the basis of the 2009 permission being part prospective and part retrospective. As such the permission is deemed to have been granted from the time at which the retrospective use commenced therefore lawful commencement would have occurred on the grant of the permission and this is not precluded by the conditions which were worded as pre-commencement conditions. As such this report is on the basis that the 2009 permission remains extant. The current application under consideration seeks to regularise the Centre as it exists today.

2.4 Development on site consists of:

- Offices, workshops and storage distribution centre (Use Class B1, B2 and B8. (Much of this was approved use as part of the 2009 permission).
- Workshops
- Educational Room
- Aviary and falconry display sheds.
- Retail Showroom and Café (Use Class A1 and A3)
- Provision of **new** toilet facilities within existing building
- Change of use of land outside the originally approved red line associated with the 2009 permission. The proposed uses are as follows:
  - Creation of external sculpture park
  - Use of land as a landscaped recreational area

2.5 The application has been advertised in the local press as a 'departure to the local plan'. It was also advertised in the press as a major application and development that potentially affects the setting of listed buildings. A site notice was also placed on the entrance to the site from the A 5 public highway and immediate neighbours notified with regard to the proposal.

2.6 A screening opinion dated 19<sup>th</sup> February 2019 (updated), carried out in accordance with The Town and Country Planning Environmental Impact Assessment Regulations 2017 establishes that the development is not considered to require an Environmental Statement in support of the formal application – see para 6.2 below..

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

3.1 The application is considered to represent significant development and has generated considerable public interest in support as well as some letters opposed to the development. The Planning Services Manager considers it necessary and appropriate for this application to be considered by the Planning Committee.

### 4.0 **Community Representations**

4.1 **Oswestry Rural Parish Council** has responded to the application indicating:

*Further to the Parish Council's response submitted on 1 August 2018 and having studied the various reports and comments concerning this complex application, the Council wishes to respond further. The application states that access and egress will be controlled. However, it would appear that only on-site traffic is being controlled and not traffic exiting onto the busy A5. Indeed, the response from Highways England dated January 2016 and reiterated in an email signed and dated 4 March 2019 states that, in the interests of maintaining highway safety measures should be put in place for the efficient operation of the A5 Trunk Road and the works identified in Condition 1 should be completed in full. The Council therefore feels that traffic issues have not been fully addressed and recommends that the Fire Authority should be consulted. Furthermore, the Council feels that any economic benefit derived from this enterprise in terms of improving Oswestry's appeal as a tourism destination is purely speculative. However, the Council hopes that the applicant's expectations of community benefit will materialise in due course.*

The earlier response indicated:

*At the meeting of Oswestry Rural Parish Council held on 31 July 2018 the application was considered. The Parish Council noted the complexity of the application. The Council requested its response be submitted after Shropshire's officers and other specialists had reviewed the application and their reports/comments were available to view.*

4.2 **Oswestry Town Council** has responded indicating:



*I write further to the consultation with the Town Council on the above Planning Application that was considered by our Development & Planning Committee on Wednesday 3rd April 2019.*

*Firstly, the Councillors wish to strongly highlight their concerns and the precedent that has been set by inviting a Parish and Town Council to comment upon an application that relates to another Parish.*

*At our meeting we received attendance from several members of the public and, as a result, the Town Council have agreed to outline to you our serious concern that it would appear that Oswestry Rural Parish has not been fully consulted on this Planning Application, and therefore it is considered that any decision making by Shropshire Council on this matter can be open to challenge as a proper consultation has not taken place, then the due process would not appear to have been followed.*

*On the basis of the above, the Town Council therefore wish to formally object to the Planning Application until Oswestry Rural Parish Council has been properly consulted. At that time the Town Council would be prepared to view their comments and if considered appropriate. At this time, and when the views of Oswestry Rural Parish Council are known, then this Council would ask for an assurance that highway views and opinions will be reflected in any final report from Shropshire Officers to the Northern Area Planning Committee.*

#### 4.3 **Consultee Comments**

#### 4.4 **Highways England** has responded to the application recommending conditions to be attached to any approval notice issued. The response indicates:

*This response represents our formal recommendations with regard the above referenced planning application and has been prepared by Priya Sansoy, Assistant Asset Manager for Highways England.*

*In our previously issued formal response to the application (dated 6 August 2018) we recommended that a number of planning conditions be imposed in the interests of maintaining highway safety and the efficient operation of the A5 Trunk Road. In the intervening period the applicant has submitted an Events Traffic Management Plan and Parking Management Strategy that will relate to the discharge of two of these recommend conditions. In light of these submissions, and our review of these documents we have identified that an update of our recommend conditions is necessary.*

*We wrote further to you on 22 January 2019 setting out comments on the draft Events Traffic Management Plan and Parking Management Strategy outlining areas where these could be improved. Following submission of revised versions of both plans and our review of the the amendments made we can confirm we are content that these are suitable for use at this time.*

*In light of the traffic issues arising from the development and as considered by these plans we consider it will be necessary that they are subject to periodic review as circumstances regarding operation of the site and of traffic on the A5 at the site access are likely to be subject to change over time. The revised planning conditions*

*(Conditions 2 and 3 below) we have recommended propose that these be subject to an initial review after 12 months and then a further series of reviews at a timescale to be then agreed as part of the ongoing maintenance of these plans. As originally set out in our response of 6 August 2018 the recommend planning condition we have detailed at Condition 1 below requires highway works to the A5 trunk road. This remains an urgent requirement for delivery of the necessary infrastructure required to mitigate the traffic arising from the day-to-day operations of the site. For avoidance of doubt there are no changes to this wording or reason for this condition.*

*Highways England Planning Response (HEPR 16-01) January 2016*

*Condition 1:*

*Prior to the expiration of 12 months following date of this notice, the highways works to the A5 trunk road that form part of this permission, as detailed within drawing no. BI-AP-100, shall commence. These works shall be completed in full.*

*Condition 2:*

*The approved Parking Management Strategy shall be implemented in full accordance with the approved details. Following 12 months of the date of this permission the Parking Management Strategy shall be reviewed and an updated version shall be submitted to and be approved by the Local Planning Authority, in consultation with the Highways Authority for the A5 Trunk Road, alongside evidence that demonstrates the effectiveness of the existing strategy. The updated document shall take account of any further measures that may be identified as being necessary and shall be amended to reflect any changes to the site layout, parking provision or management. A strategy for ongoing periodic review of the Parking Management Strategy and any other necessary triggers points for review shall be detailed and agreed with the Local Planning Authority. The plan shall continue to ensure that offsite parking on the A5 trunk road does not occur.*

*Condition 3:*

*The Event Management Plan shall be implemented in full accordance with the approved details. Following 12 months of the date of this permission the Event Management Plan shall be reviewed and an updated version shall be submitted to and be approved by the Local Planning Authority in consultation with the Highways Authority for the A5 Trunk Road, alongside evidence that demonstrates the effectiveness of the existing Plan. The updated document shall take account of any further measures that may be identified as being necessary and shall be amended to reflect any changes to the site layout, parking provision or management. A strategy for ongoing periodic review of the Event Management Plan and any other necessary triggers points for review shall be detailed and agreed with the Local Planning Authority. The event management plan shall continue to ensure that volume of traffic utilising the site entrance to the A5 trunk road is managed and controlled where it is identified that the volume of traffic arriving or departing the site may give rise to concerns about the operation of the road.*

*Reason Conditions 1 to 3*

*In the interests of maintaining highway safety and the efficient operation of the A5 Trunk Road*

An earlier response indicated:

*HIGHWAYS ENGLAND (“we”) has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure*

*Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.*

*This response represents our formal recommendations with regard the above referenced planning application and has been prepared by Robert Jaffier, Asset and Resource Manager for Highways England.*

*Following the re-submission of the retrospective planning application for the British Ironwork Centre site, Highways England have undertaken a review of the proposed traffic generation provided by the applicant, which have been based on survey data undertaken between November 2017 and February 2018.*

*Our review of traffic originating from the development confirms that the levels of traffic likely to arise from the day-to-day operations of the site will require mitigation at the site's access with the A5. The form of improvement to the access has been proposed as part of the application and we can confirm that we agree this is suitable in traffic and engineering terms to manage the daily levels of traffic anticipated to arise.*

*This scheme is necessary due to the volume of traffic associated with the development which have implications for the continued safe and efficient operation of the A5 trunk road. The proposed access junction mitigation measures therefore should be implemented as soon as practicably possible. We note that management of parking on-site and the avoidance of off-site parking on the A5 trunk road will be necessary to support the physical mitigation measures proposed by the applicant to ensure the safe operation of the A5.*

*We note however that beyond the typical day-to-day operation of the site that events at the British Ironwork Centre are a common feature of its operation. Events are likely to result in higher than typically development traffic flows utilising the site access. Our review of the event schedule for the British Ironwork Centre, as displayed on their website, notes several music, children's and other events which are likely to prove to be popular. Where the traffic implications of such events may be significant then these should be managed to ensure vehicular traffic can safely access and egress the site via the A5.*

*Highways England Planning Response (HEPR 16-01) January 2016*

*We therefore recommend the applicant agree an Event Management Plan which will detail how the applicant intends to manage traffic arising from visitors into and out of the British Ironwork Centre on event days in circumstances where such events are likely to significantly exceed the development traffic flows considered as part of the application. Such a plan should suitably manage the effects of event traffic on the surrounding road network and provide particular consideration to the times when such traffic will coincide with peak hours on the A5 Trunk road.*

*For the reasons set out above Highways England formally recommends that the following Planning Conditions should be attached to any grant of planning permission*

**Condition 1:**

*Prior to the expiration of 12 months following date of this notice, the highways works to the A5 trunk road that form part of this permission, as detailed within drawing no. BI-AP-100, shall commence. These works shall be completed in full.*

**Condition 2:**

*A Parking Management Strategy shall be submitted and agreed by the Local Planning Authority in consultation with the Highway Authority for the A5 Trunk Road. The plan shall detail how parking shall be managed within the site to ensure that off-site parking on the A5 trunk road does not occur.*

**Condition 3:**

*An Event Management Plan shall be submitted and agreed by the Local Planning Authority in consultation with the Highway Authority for the A5 Trunk Road. The plan shall detail how traffic shall be controlled on days where organised and publicised events take place. The event management plan shall ensure that volume of traffic utilising the site entrance to the A5 trunk road is managed and controlled where it is identified that the volume of traffic arriving or departing the site may give rise to concerns about the operation of the A5 trunk road. The event management plan shall ensure that parking on site is managed in such a way to prevent off-site parking on the A5 trunk road.*

**Reason Conditions 1 to 3**

*In the interests of maintaining highway safety and the efficient operation of the A5 Trunk Road.*

**4.5 The Environment Agency** has responded indicating:

*An officer from the Environment Agency visited the site on 28 September 2018 to inspect the foul drainage system. The applicant had also been taking water meter readings in order to estimate a daily volume of sewage generated by the business. It is believed that on average the business generates about 3.9 cubic metres of sewage effluent a day. The information provided in the drainage report and in the drainage plan is considered reasonably accurate. The existing system of the two septic tanks is currently unsatisfactory however and has led to localised septic tank pollution of the dry ditch course which flows along the western site boundary.*

*It is not clear how effluent from the larger three bay septic tank has gained access to the ditch course however the applicant has agreed to replace the tank with a modern sewage treatment plant to British Standard BS EN 12566. We would also require the existing soakaway system to be investigated and improved.*

*The smaller septic tank (labelled tank 4 on the block plan) is unsatisfactory as it is sited too close to the surface water ditch. There is clear evidence of septic tank effluent from the tank in the adjacent ditch. We would recommend that this septic tank is discontinued and the foul drainage connected to one main package treatment plant.*

*The Government has allowed certain domestic dwellings and small businesses to operate to General Binding Rules (GBR) without the need for an Environmental Permit in relation to the treatment and discharge of sewage effluent. Black Country Metal Works Limited however would exceed the permitted volume of treated effluent which could be discharged into the ground under the GBR. The Agency has thus recommended that the Company apply for an Environmental Permit in order to regulate this activity.*

*Condition: The development hereby permitted shall not be commenced until such time as a scheme for the disposal of foul effluent has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.*

*Reason: To prevent pollution of the water environment.*

*In summary the Environment Agency is not opposed to planning permission being granted to the Company however improvements are required to the existing septic tanks and soakaway systems which will be secured through the Environmental Permit*

4.6 **SC Land Drainage** have responded to the application with **no objections** indicating:

*The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority. All correspondence/feedback must be directed through to Shropshire Council's Development Management Team. The Agent's letter regarding the foul water drainage dated 14 January 2019 is in response to the Environment Agency's consultation. The surface water drainage in the Conclusions & Recommendations in the Drainage Report is acceptable.*

Earlier responses indicated:

*The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority. All correspondence/feedback must be directed through to Shropshire Council's Development Management Team.*

*The Conclusions & Recommendations in the drainage Report are acceptable*

An earlier response indicated:

*The technical details submitted for this Planning Application have been appraised by WSP UK Ltd, on behalf of Shropshire Council as Local Drainage Authority. All correspondence/feedback must be directed through to Shropshire Council's Development Management Team.*

*The site is greater than 1.0 Ha. and a FRA has been produced. In the FRA, it states that there will be no alteration to the number or type of buildings with existing internal driveways and parking areas retained. Much of the site drains to soakaways and/or via a piped system to the ditches and watercourse. SuDS*

*techniques are currently used within the development with the use of water butts and rainwater harvesting.*

*Therefore the existing surface water drainage arrangements are acceptable*

4.7 **SC Public Rights of Way** have responded indicating they wish to make no comment on this application.

4.8 **SC Archaeology Manager** has responded indicating:

*We have no comments to make on this application with respect to archaeological matters.*

4.9 **SC Tree Officer** has responded to the application indicating:

*The proposed development will not impact on significant trees and any loss associated with the removal of vegetation to form visibility splays will be mitigated through the planting undertaken on the site. No objection to the proposed development*

4.10 **SC Planning Ecology** has responded to the application indicating:

*Recommendation:*

*Conditions and informatives are recommended.*

*The Brief Landscape Management Plan (Greenscape Environmental, April, 2017), which was submitted for the previous application (16/04624/FUL), should be attached to this application.*

*Ecological surveys were carried out on this site in January and March 2017 by Greenscape Environmental. A Brief Landscape Management Plan was also submitted with the previous application (16/04624/FUL); this should be attached to this application.*

*Below I have repeated the comments I made for 16/04624/FUL.*

*Habitats*

*Habitats on the site consist of semi-improved species-poor grazed grassland, amenity grassland, species-poor hedgerows (mostly intact), ditches, drains, mature trees, marshy grassland, a small area of semi-improved grassland with areas of rush, scrub, a small dry pond, disturbed ground, bunds, buildings, hardstanding and post-and-wire fencing.*

*The Brief Landscape Management Plan (Greenscape Environmental, April, 2017) includes habitat enhancements, planting suggestions and maintenance schedule.*

*The proposed landscaping and enhancements will improve the value of the site for a wide range of species.*

## *Bats*

*None of the buildings on the site were considered suitable to support roosting bats.*

*Many of the mature oak trees around the site contained potential roost features. None of the trees will be directly affected by the development. Should any works to the mature trees be required in the future (e.g. felling, lopping, crowning, trimming) then this should be preceded by a bat survey to determine whether any bat roosts are present and whether a Natural England European Protected Species Licence is required to lawfully carry out the works.*

*The site, particularly the boundaries, are highly likely to be used by foraging and commuting bats.*

*Any new lighting on the site must be sensitive to bats and follow the Bat Conservation Trust's guidance.*

*Bat boxes could be erected on suitable mature trees to enhance the roosting opportunities available.*

## *Great crested newts*

*In their report, Greenscape identify two ponds within 500m of the site, one which lies 45m to the east of the site boundary and another which lies 160m to the south-west.*

*The pond which lies 45m to the east was subject to a Habitat Suitability Index assessment which calculated the pond as having 'Below Average' suitability to support great crested newts. The other pond (160m to the south-west) was discounted from assessment due to the presence of a major road which forms a significant barrier to newt dispersal.*

*There are additional mapped ponds within 500m which haven't been acknowledged in Greenscape's report. These ponds lie 385m to the north (at Yew Tree House), 445m and 470m to the north-west (at The Laurels) and 480m to the south-west. However, given the distances between the ponds and the site, I do not consider that these ponds need to be assessed.*

*'The pond will not be directly affected by any works on the field, as nearby drains flow away from the pond. The development will enhance the terrestrial habitat for newt species, and perhaps encourage newts into the area if standing water is created.'*

*Site materials should be stored off the ground, e.g. on pallets or in skips, to prevent them being used as refuges by wildlife.*

*Trenches should be closed overnight or contain a ramp so that any animals that become trapped have a means of escape.*

*Greenscape recommend the creation of a pond 'in the low area between the large and the triangular field which make up field 3. The drain can be used to assist with the maintenance of water levels.' The creation of hibernacula and a management plan for the pond ('to include a scheme of vegetation control and best methods of vegetation removal') are also recommended.*

#### *Badgers*

*'Towards the western end [of the southern boundary] there is a historic badger sett. After discussion with the client, it is understood that a badger activity survey was conducted within the last two years which found no activity associated with this sett. Findings from the site visit in March 2017 found nothing to dispute these findings. All the sett entrance[s] were littered with windfall and sticks – objects which would be actively cleared in an occupied sett. Additionally, almost all sett entrances were littered with rabbit droppings, suggesting rabbit occupation rather than badgers. Whilst it is not anticipated that badgers occupy this sett any longer, snuffle holes were found within this field that are of a size expected from badger activity.'*

*'Various mammal tracks were observed along field margins, but no evidence was found that allowed a specific identification.'*

*Should any evidence of badgers be discovered prior to or during works, advice should be sought from a suitably qualified ecologist.*

#### *Water voles*

*Although suitable habitat exists in places, no evidence of water voles was observed along the banks of any of the drains and ditches. Should any evidence of water voles be discovered prior to or during works conducted near the ditches or drains, advice should be sought from a suitably qualified ecologist.*

#### *Barn owls*

*In January 2017, an active barn owl nest was observed in a dead tree along the eastern boundary. 'Unfortunately, in the high winds of Storm Doris, this tree has been damaged to the point of unsuitability for barn owl.' 'It is therefore recommended that a barn owl box be installed on another of the mature trees along the same hedgerow.'*

*Greenscape recommend that the grassland is managed for small mammals to improve the foraging opportunities available for barn owls.*

#### *Other birds*

*The hedgerows, trees and buildings provide potential nesting opportunities for birds.*

*Works should ideally take place between September and February to avoid harming nesting birds. If this is not possible then a pre-commencement check must be carried out and if any active nests are present, works cannot commence until*



*the young birds have fledged.*

*Greenscape recommend the erection of a range of bird boxes on buildings and trees to enhance the nesting opportunities available.*

*Other species*

*No evidence of any other protected or priority species was observed on, or in close proximity to, the site and no additional impacts are anticipated.*

*Conditions and informatives*

*The following conditions and informatives are recommended for inclusion on the decision notice:*

*Barn owl box condition*

*Prior to commencement of development, details for the provision of a barn owl box shall be submitted to and approved in writing by the Local Planning Authority. A nesting box shall be provided for barn owls in a suitably mature tree in the eastern boundary hedgerow. The box shall be erected in accordance with the approved details and thereafter retained for the lifetime of the development.*

*Reason: To secure the long-term protection of barn owls.*

*Working in accordance with ecological reports condition*

*All development, demolition, site clearance, landscaping and biodiversity enhancements shall occur strictly in accordance with the Environmental Appraisal (Greenscape Environmental, March 2017) and Brief Landscape Management Plan (Greenscape Environmental, April, 2017, unless otherwise approved in writing by the Local Planning Authority. Works shall be overseen and undertaken, where appropriate, by a licensed, suitably qualified and experienced ecologist.*

*Reason: To ensure the protection of and enhancements for wildlife.*

*Nesting birds informative*

*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, scrub removal and/or conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from mid-March to August inclusive.*

*If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests*

*should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.*

*If during construction birds gain access to any of the building[s] and begin nesting, work must cease until the young birds have fledged.*

#### *General site informative for wildlife protection*

*The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.*

*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.*

#### *Bats and trees informative*

*It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.*

*During all works on mature trees there is a very small risk of encountering bats which can occasionally be found roosting in unexpected locations. Contractors should be aware of the small residual risk of encountering bats and should be vigilant when working on mature trees, particularly where cracks and crevices or thick ivy covering are present. Any cracks and crevices should be visually inspected prior to the commencement of works on the tree and if any cracks or crevices cannot easily be seen to be empty of bats then an experienced, licensed bat ecologist should be called to make a visual inspection using an endoscope and to provide advice on tree felling.*

*Works on trees with high bat roosting potential (aged or veteran trees with complex crevices and areas of dead wood) should not be undertaken without having first sought a bat survey by an experienced, licensed ecologist in line with the Bat Conservation Trust's Bat Survey: Good Practice Guidelines (3rd edition). Felling and tree surgery work should only be undertaken in line with guidance from a licensed ecologist and under a European Protected Species Mitigation Licence where necessary.*

*If a bat should be discovered on site then development works must halt and a licensed ecologist and Natural England (0300 060 3900) contacted for advice on*

*how to proceed. The Local Planning Authority should also be informed.*

#### *Badgers informative*

*Badgers, their setts and the access to the setts are expressly protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or control a badger; to damage, destroy or obstruct access to a sett; and to disturb a badger whilst it is occupying a sett.*

*No development works or ground disturbance should occur within 30m of a badger sett without having sought advice from an experienced ecologist and, where necessary, without a Badger Disturbance Licence from Natural England. All known badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.*

*There is an unlimited fine and/or up to six months imprisonment for such offences. Items used to commit the offence can also be seized and destroyed.*

#### *Water voles informative*

*Water voles are protected under the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to kill, injure or take a water vole; to damage, destroy or obstruct access to their places of shelter; and to disturb a water vole while using a place of shelter. There is an unlimited fine and/or up to six months imprisonment for such offences.*

*Water voles make burrows in stream banks and can be present up to 5m from the watercourse and can be disturbed by activity, especially the use of heavy machinery and vibration occurring within 10m or so of the top of the bank. Care should be taken alongside the stream during the construction and operation of the site. If works are proposed to the stream or banks in the future then an experienced ecologist should be engaged to provide advice prior to any works being carried out.*

#### 4.11 **SC Highways** has responded indicating:

*No objection - no other highway comment to be added to the previous comments made in the Advice Note dated the 22/1/19.*

##### *Observations/Comments*

*Other than information on parking and event management, no further highway information has been submitted. A parking or an event management problem would not be expected to impact on any highways that are the responsibility of the Council.*

Earlier response indicated:

*No objection – subject to the recommended planning condition.*

##### *Observations/Comments*

*The development is served from the A5, the A5 is a trunk road and as such is the*

*responsibility of Highways England. Highways England have assessed the A5 junction to the application site and have stated that the junction should be improved.*

*Consequently, there is a proposal within this application to improve the A5 junction. This improvement is expected to be included in a planning condition that ensures the improvement happens within an agreed period of time.*

*No other public highways are included within the red line, within the blue line there is an outline of an access off the A5009. This access has only appeared in recent years, with no record available that it has permission to be there. An access off a classified road requires planning permission.*

*To ensure this access is not used to service the development site, it is recommended that this access be stopped up permanently, with this action linked to any approval the application may receive. It is recommended that the access hardstanding surface is completely removed with the fence and hedge line reinstated. If it is relative, a recommended planning condition has been prepared below.*

*Conditions:*

*For the Lifetime of the Development*

*Vehicular use of the access that is contained within the blue line area shown on the Location Plan SA29520/01, to the B5009 shall cease with immediate effect and be permanently closed and the boundary hedge and fence reinstated within two months of the date of this planning permission*

*Reason: In the interests of highway safety*

*Informative*

*Works on, within or abutting the public highway*

*This planning permission does not authorise the applicant to:*

- construct any means of access over the publicly maintained highway (footway or 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.*

4.12 **SC Conservation Manager** has responded to the application indicating:

*Following our previous comments on this retrospective scheme, the residual effects of the extensions and new buildings on the significance of designated assets are negligible. The effect on the character of the farmstead, a non-designated heritage asset, should as a minimum be mitigated through a comprehensive and detailed planting scheme, which incorporates aspects of its historic setting*

4.13 **SC Regulatory Services** have responded indicating:

*Having considered the proposals and noise assessment previously considered during past planning applications I am of the opinion that the proposals although they may increase noise in the locality from activities on site is unlikely to significantly raise noise levels to a point considered to have a significant impact on amenity of nearby residents. As a result I have no conditions to propose and no objection in principal to the proposals*

4.14 **SC Planning Policy** have responded as follows:

*Having reviewed the applicant's Retail Assessment (RA) I have the following comments...*

*The proposed development includes 811sq.m of retail floorspace, made up of retail showrooms and café (717sq.m), mezzanine floorspace (34sq.m) and the reception/visitor information area (60sq.m). The RA correctly points out the proposal is not located within an existing centre and is not in accordance with the Development Plan as the site is not allocated for development. Therefore it is necessary for the proposal to be subject to an Impact Assessment.*

*The impact assessment is proportionate, but does seek to address the key issue of potential impact on Oswestry town centre. It is recognised the methodology used by the applicant varies from more traditional retail impact assessments given the more specialist nature of the products being sold from the retail floorspace. However, it is recognised that the applicant has sought to quantify this within Tables 1 and 2 of the RA by setting out the likely sales density of the proposal (£1,000 per sq.m); establishing the available expenditure within the Oswestry and Shropshire area; and setting out what percentage of the turnover from the retail floorspace they predict will come from this expenditure.*

*The applicant considers the proposed retail floorspace is ancillary to the overall operation of the proposal and that to this end the retail floor space is not a destination in its own right. I consider this is a reasonable conclusion given the scale and nature of the current and proposed use of the space. The RA assumes a 'like for like' impact, which again is reasonable to assume. On this basis the applicant notes there is no competing offer for the specialist products sold at the works. The point is also made that in practice the floorspace will also be used for other non-retail uses, such as exhibits and educational initiatives, although importantly and correctly the RA assumes the impact in a scenario where the retail floorspace is in constant use for this purpose.*

*The applicant provides evidence of electronic membership data in estimating only 15% of the expenditure spent at the floorspace originates from Oswestry. This is important in looking at the overall impact on the level of trade diversion from Oswestry town. Whilst the retrospective nature of the application is unfortunate, it does at least allow for this more robust evidence of actual trading data to inform the assessment. To this end it is accepted that the trade diversion projections from Oswestry are robust in nature.*

*Working this through the conclusion of the RA is that there will be a very marginal impact on Oswestry town centre resulting from trade diversion, and in fact the applicant points to the positive outcomes of 'linked trips' between the works and Oswestry town centre. To this end I would agree with the conclusions of the RA that the application meets the Impact test set out in the NPPF and Policy MD10b of the SAMDev Plan.*

*Given the conclusions of the RA are based upon the ancillary and 'specialist' nature of the proposed retail floorspace, it is considered necessary for any approval to be subject to a condition restricting the total retail floorspace to no more than 811sqm, and for the floorspace to be restricted to principally the sale of goods relating to home and garden metal products.*

#### 4.15 **Public Comments**

Numerous letters in support of the application (in excess of 200), have been received from members of the public. Many of these are forms filled in support and forwarded to the Council from the business operating from the site. These also include letters on behalf of charitable organisations. Key points raised can be summarised as follows:

- The existing business on site is a welcome attraction in the Oswestry area.
- The business supports local causes and organisations.
- Significant economic benefits to the surrounding area.
- Business operating from the site supports and assists charitable organisations and what are considered good causes mainly through fundraising etc.
- Popular tourist attraction

Letters of objections have also been received however these are in the minority. (single figures, seven separate households). Key issues raised can be summarised as follows:

- Concerns with regards to site's planning history and that conditions attached to a previous planning approval for the site have not been adhered to and therefore existing development is all unlawful.
- Concerns about highway safety.
- Foul drainage on site.
- Supporting this development will create a precedent for other unauthorised development.

- Location not considered a suitable tourist attraction location.
- Detrimental impact on Oswestry town centre.
- Building Regulations concerns in respect of existing site.
- Concerns about animals buried on site as a result of foot and mouth.
- On site security
- Biodiversity concerns.

## 5.0 THE MAIN ISSUES

- Background to the application
- Environmental Impact Assessment
- Principle of development
- Economic and viability impacts
- Siting, scale and design
- Visual impact and landscaping (Including historic impacts).
- Ecology
- Public highway and transportation issue.
- Drainage.
- Residential and amenity issues.

## 6.0 OFFICER APPRAISAL

### 6.1.1 Background to the application.

6.1.2 Planning permission was granted on 25<sup>th</sup> March 2009 for change of use of traditional farm buildings to office and business suit, plus use of portal farm buildings for storage of trade only, ironmongery, plus mail distribution plus alterations to office spaces at Whitehall Farm together with associated works. (Reference number OS/09/15876/FUL).

6.1.3 Whilst not considered clear it is accepted that this application was in part retrospective as the application appears to have referred to use of an existing steel framed building for storage of trade only. Planning records appear to indicate this porta framed building as being in use in relation to ironmongery trade. Conversion to office suite works were proposed and managed by conditions 2, 5, 6,7 and 8 as attached to the approval notice.

6.1.4 There were a number of pre-commencement conditions attached to the planning permission including 10,11, 12 and 13. Of most significance to the current application under consideration is condition 13 which deals with necessary highway improvements and reads as follows:

*“ Prior to the commencement of the development the applicant shall undertake access improvements the design of which shall be in accordance with Highways Agency design standards and to be certified as being complete by the Local Planning Authority in consultation with the Highways Agency.*

*Reason: To ensure that the A5 Trunk Road continues to serve its purpose as part*

*of the national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by minimising disruption to the flow of traffic expected to be generated by the development and to protect the interests of road safety on the trunk road."*

- 6.1.5 The original planning application form indicated that "*the building, work or change of use already started*" and provided the date of August 2005 as the date from which "*Existing buildings being used for storage*". The box responding to "*Has the building, work or change of use been completed?*" ticks No. It is noted that the site area is identified as 0.98 ha.  
The 2009 Design and Access Statement which indicates that the application was, in part, a retrospective application in that as it stated that, "*The planning application is to regulate the change of use into their present use of storage and distribution of ironmongery to the trade.*" Moreover, the references to the change of use within the policy section seem to refer to it in the past tense, as for example is the case under policy LE10.
- 6.1.6 The Planning Statement in support of the current application states that the site has been lawfully home to Black Country Metals t/a British Ironwork Centre since circa 2005.
- 6.1.7 The British Ironworks Centre is served by an access from the main A5 Trunk Road. The access that was the subject of condition 13 on the original planning approval for the site has not been provided. On the basis that the 2009 permission was part retrospective and commencement had therefore already occurred retrospectively, it is considered that the conditions framed as pre-commencement conditions do not have effect as pre-commencement conditions. Therefore the development permitted by the 2009 permission has not been commenced unlawfully and remains extant
- 6.1.8 Despite the assurances to the contrary within the 2009 application the site has developed well beyond that allowed for under the 2009 planning permission and includes a significant 'out-of-town' retail offer.
- 6.1.9 Clearly the existing use and development on site does not all have the benefit of planning permission and consequentially the owners of the site were invited to submit a planning application to regularise the position. Initially they applied for additional development and this provided difficulty in differentiating the retrospective and prospective elements of the proposal. The most recent application is intended to be restricted to regularising the existing position.
- 6.1.10 The application under consideration reference 18/02657/FUL is described as an "*application under Section 73A of the Town Country Planning Act 1990 (as amended) for regularisation of extensions to existing buildings together with lawful uses relating to a mixed use rural enterprise (A1, A3, B1, B2 and B8); improvements to existing vehicular access including creation of visibility splay; change of use of land to sculpture park and car parking areas at Black Country Metal Works Ltd Whitehall Farm Queens Head Oswestry Shropshire SY11 4JH*".
- 6.1.11 The application was considered a departure from the Local Plan and therefore has



been advertised as such.

6.1.12 As such two main issues of principle which this application raises are:

- Whether the proposal represents sustainable development in the countryside.
- Does it support and promote tourism, leisure and economic development.

## 6.2 Environmental Impact Assessment

6.2.1 As stated in paragraph 2.6 above the development has been subject to a Screening Opinion dated 19th February 2019, and this was carried out in accordance with The Town and Country Planning Environmental Impact Assessment Regulations 2017 and establishes that the development is not considered to require an Environmental Statement in support of the formal application (Schedule 2: 12(d) – Tourism and Leisure). The proposed development considered to fall within Schedule 2, Section 2, Paragraph 12 “Tourism and Leisure” developments, namely: (d) Theme parks. The development as proposed falls into this category as it is considered that The Ironworks has an underlining unifying setting or idea based on an original idea and the site offers a number of different attractions to members of the public such as workshops and entertainment, café, sculpture park, (D2 class use), retail and buggy and cycle hire. The conclusions to the Council’s Screening Opinion indicate that although the area of the development would exceed one of the indicative criteria’s set out in the regulations (site area is more than 0.50 ha), for determining significance, with reference to the guidance as set out in National Planning Policy Guidance, it is concluded that an EIA is not required, notwithstanding the importance of giving thorough consideration to landscape character, visual impact, highway impact and any ecological impacts arising from the proposals. A copy of the Council’s EIA Screening Opinion is available for inspection on the Council’s application website.

## 6.3 Principle of development

6.3.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

6.3.2 Core Strategy policy CS5 advises that within the countryside proposals will be supported in principle where they relate to sustainable and rural tourism and leisure and recreation proposals which require a countryside location, in accordance with policies CS16 and CS17. Policy CS16 supports new and extended tourism development and cultural and leisure facilities that are appropriate to their location and enhance and protect the existng offer within Shropshire. It specifies that in rural areas proposals must be of an appropriate scale and character for their surroundings and, if not close to or within settlements,.

- 6.3.3 The above Development Plan policies are considered to be wholly in accordance with the National Planning Policy Framework (2019) which advises at paragraph 12 that 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 and that local planning authorities may take decisions that depart from an up-to-date development plan, but only where material considerations in a particular case indicate that the plan should not be followed. The NPPF is supportive of a prosperous rural economy and at paragraph 83 states that planning policies and decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside.
- 6.3.4 Paragraph 84 indicates that decisions should recognise that sites should meet local business and community needs in rural areas may be found adjacent to or beyond existing settlements and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable and that the use of previously developed land and sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist.
- 6.3.5 In this instance it is considered that there is no in-principle planning policy objection to the proposals contained in this application when assessing the overall material considerations as to the acceptability or otherwise of the proposals which rest on the detail matters considered in turn below.
- 6.4 **Economic and viability impacts**
- 6.4.1 Paragraph 80 of the NPPF indicates that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. It also requires that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 6.4.2 Paragraph 82 of the NPPF indicates that planning policies and decisions should recognise and address the specific locational requirements of different sectors.
- 6.4.3 Paragraph 83 of the NPPF indicates that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings, the development and diversification of agricultural and other land-based rural businesses and sustainable rural tourism and leisure developments which respect the character of the countryside
- 6.4.4 Paragraph 84 of the NPPF indicates that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make

a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

- 6.4.5 Policy CS5 states that new development will be strictly controlled in the countryside but encourages small-scale new economic development diversifying the rural economy and uses appropriate to a countryside location, including farm diversification, sustainable rural tourism and leisure proposals where they require a countryside location and the retention and appropriate expansion of an existing established business unless relocation to a suitable site within a settlement would be more appropriate. However this policy does put an emphasis on development taking place primarily in recognisable named settlements or be linked to other existing development and business activity where this is appropriate.
- 6.4.6 Policy CS13 of the Shropshire Core Strategy states that in rural areas there should be recognition for the continued importance of farming for food production and supporting rural enterprise and diversification of the economy and that development proposals must accord with Policy CS5.
- 6.4.7 Policy CS16 of the Shropshire Core Strategy indicates support for new and extended tourism development, cultural and leisure facilities that are appropriate to their location and enhance and protect the existing offer within Shropshire and supports schemes aimed at diversifying the rural economy for tourism culture and leisure uses that are appropriate in terms of their location, scale, and nature and which retain and enhance existing natural features where possible and do not harm Shropshire's tranquil nature.
- 6.4.8 Policy CS15 indicates that recognised town and key centres will be the locations for new retail, office and other town centre uses.
- 6.4.9 Policy MD10b of the SAMDev indicates that in order to ensure development does not cause significant adverse impacts on the vitality and vibrancy of Shropshire's town and rural centres, applicants will be required to prepare Impact Assessments for new retail, leisure and office proposals where they are located outside a defined town centre, or are more than 300 metres from a locally recognised high street or village centre and exceed 300 square metres floor space in relation to a Principal Centre and 200 square metres floor space in relation to a District Centre. The policy further states that the Council will not permit proposals which have a significant adverse impact on town centres or where it is considered the scope of the impact assessment is insufficient.
- 6.4.10 Policy MD11 of the SAMDev makes reference to permitting tourism, leisure and recreation development that require a countryside location where any such proposal complements the character and qualities of the site's immediate surroundings and meets the requirements of Policies CS3, CS16, MD7b, MD12 and MD13 and relevant local and national guidance.
- 6.4.11 Policies MD7b, MD12 and MD13 refer to the rural environment and ensuring development is appropriate to its location.

- 6.4.12 Policy CS3 refers to development in market towns and key centres, which will maintain and enhance their roles in providing facilities and services to their rural hinterlands and providing foci for economic development and regeneration.
- 6.4.13 The application under consideration is clearly large scale consisting of a variety of different class uses, some of which can be considered more appropriate to a town centre location, (A1- retailing). Whilst it makes use of a former farmstead and some of its surrounding farmland, it is not a diversification of the former working farm, as the former farmstead is solely in use in connection to the business operated and known as The British Ironworks. Clearly this does result in some conflicts with local plan policies, and as such the overall sustainability of the proposed use, and in particular landscape and visual impact along with degree of uses more associated with a town or key centre use, (A use classes), is a key material consideration in relation to this application.
- 6.4.14 However it is also recognised that the existing development on site, (all be it largely subject to a retrospective application), does provide some economic and social benefits to the surrounding area.
- 6.4.15 In support of their application, the applicants have submitted an economic benefits summary and this concludes that the benefits associated with the approval of the retrospective proposal will allow the Centre to continue to make positive contributions to the local and regional economy and that the Centre's operations deliver direct economic benefits, through providing employment opportunities as indicated in the Planning Policy response to the application in paragraph 4.14 above.
- 6.4.16 The application under consideration includes provision for 811square metres of retail floor space, made up of retail showrooms and café (717 square metres), mezzanine floor space (34 square metres) and the reception/visitor information area (60 square metres). The Retail Assessment correctly points out the proposal is not located within an existing recognised centre and is not in accordance with the Local Development Plan as the site is not allocated for development. Therefore it is necessary for the proposal to be subject to an Impact Assessment.
- 6.4.17 The impact assessment is considered proportionate, and considers a key issue of potential impacts on Oswestry town centre. It is recognised the methodology used by the applicant varies from more traditional retail impact assessments given the more specialist nature of the existing products being sold from the retail floor space and this is considered reasonable, establishing the available expenditure within the Oswestry and Shropshire area; and setting out what percentage of the turnover from the retail floor space they predict will come from this expenditure.
- 6.4.18 The applicants consider the proposed retail floor space is ancillary to the overall operation of the proposal and that to this end the retail floor space is not a destination in its own right. Based on current operations on site, this is considered a reasonable conclusion given the scale and nature of the use of the space. The retail assessment assumes a 'like for like' impact, which again is considered reasonable to assume. On this basis the applicants note there is no direct

competing offer for the specialist products sold at the works. The point is also made that in practice the floor space will also be used for other non-retail uses, such as exhibits and educational initiatives, although importantly and correctly the retail assessment assumes the impact in a scenario where the retail floor space is in constant use for this purpose.

- 6.4.19 The applicants have also provided evidence of electronic membership data in estimating only 15% of the expenditure spent at the floor space originates from Oswestry. This is important in looking at the overall impact on the level of trade diversion from Oswestry town. Whilst the retrospective nature of the application is unfortunate, it does at least allow for this more robust evidence of actual trading data to inform the assessment. To this end it is accepted that the trade diversion projections from Oswestry are robust in nature.
- 6.4.20 Working this through, the Council's Planning Policy response considers the conclusion of the retail assessment is that there will be a very marginal impact on Oswestry town centre resulting from trade diversion, and in fact the applicants points to the positive outcomes of 'linked trips' between the works and Oswestry town centre. As such it is considered that the conclusions of the retail assessment meets the Impact test set out in the NPPF and Policy MD10b of the SAMDev Plan.
- 6.4.21 As the conclusions of the applicants retail assessment are based upon the ancillary and 'specialist' nature of the proposed retail floor space, it is considered necessary for any planning permission to include a condition restricting the total retail floor space to no more than 811 square metres as is presently in use and for the floor space to be restricted to principally the sale of goods relating to home and garden metal products only. This should also include reference to the existing café outlet which is ancillary to the existing main retail indoor themed display and educational initiatives.

## 6.5 **Siting, scale and design.**

- 6.5.1 Policy CS6 of the Core Strategy is concerned with delivering high quality sustainable design in new developments that respect and enhance local distinctiveness. This is further bolstered by SAMDev Policy MD2. In summary, these policies expect new development to be designed to be sustainable in the use of resources, including during the construction phase and future operational costs, reduced reliance on private motor traffic, be respectful of its physical, landscape setting and context and to incorporate suitable mitigation in the form of materials and landscaping. Significantly, Policy MD2 allows for appropriate modern design and promotes *"embracing opportunities for contemporary design solutions, which take reference from and reinforce distinctive local characteristics to create a positive sense of place, but avoid reproducing these characteristics in an incoherent and detrimental style."*
- 6.5.2 The site make use of a former traditional farmstead and is located in open countryside which, as with much of the surrounding area, is characterised by gently undulating plain, limited tree cover and strong field patterns with generally well maintained boundaries and hedgerows. While the site is relatively open, it is not covered by any statutory landscape designation. The site has expanded

significantly since the original 2009 planning application for a wholesale distribution business associated with metal goods. This was based within a set of agricultural buildings around the edge of the Whitehall Farm house and was a relatively low-key and small scale business. Over the intervening years the business has developed and evolved into something quite different and has physically expanded far beyond the original site. In terms of scale, it is much greater than before and this has an effect upon the character and appearance of the area.

- 6.5.3 The development on site and as proposed does have a physical impact on the landscape both through new buildings. New uses such as the sculpture park, recreational area and associated paraphernalia associated with the business carried out on site, along with the widening of the access onto the A5. The new build on site is mostly limited in height to small scale sculptures and low rise buildings. Whilst in EIA terms the development is considered similar to a 'Theme Park' it is without doubt unique in concept, a visitor attraction, but plainly not an "Alton Towers" or "Thorpe Park" and as a consequence landscape and visual impact is an important material consideration which is discussed in detail below.
- 6.5.4 In relation to scale and design the development is considered acceptable in accordance with Policy CS6 of the local plan subject to the further consideration to landscape and visual impact as discussed below.

## 6.6 Visual impact and landscaping

- 6.6.1 Policy CS5 'Countryside and Green Belt and Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy encourage development that improves the sustainability of rural communities whilst requiring development to protect and conserve the natural, built and historic environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, and ensure sustainable design and construction principles are incorporated within the new development.
- 6.6.2 In addition SAMDev Policy MD2 Sustainable Design builds on Policy CS6 providing additional detail on how sustainable design will be achieved. To respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set.
- 6.6.3 Policy CS17 'Environmental Networks' states that development will identify, protect, enhance, expand and connect Shropshire's environmental assets and does not adversely affect the visual, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors. In addition, SAMDev Policy MD12: The Natural Environment builds on Policy CS17 providing development which appropriately conserves, enhances, connects, restores or recreates natural assets.
- 6.6.4 Also, SAMDev Policy MD13: The Historic Environment states that in accordance with Policies CS6 and CS17 and through applying the guidance in the Historic Environment SPD, Shropshire's heritage assets will be protected, conserved,

sympathetically enhanced and restored.

- 6.6.5 Landscape and visual impact is a key material consideration in relation to this application. The site is located in open countryside and the existing building complex comprises various sections that were added during its original development as a farmstead and more recently in relation to the current use as The British Ironworks attraction centre. Many of the buildings retain an agricultural theme with more modern and adaptable structures added that complement the site's use in relation to the Ironworks.
- 6.6.6 A Landscape and Visual Impact Assessment (LVIA) has been submitted in support of the application and this explains the site in some detail referring to aspects that require retrospective planning permission as primarily extensions to approved lawful buildings including the showrooms, workshops and stores along with the aviary and falconry display sheds. Also considered as part of the assessment is the formalisation of the 'external sculpture park' and the 'use of land as a landscaped recreational area' which provide the setting to built aspects of development at the site.
- 6.6.7 The site is surrounded by and includes mature vegetation, this would be retained and is in the process of being enhanced by the Shropshire Wildlife Trust; notably by a planting scheme which commenced in February 2018, and will extend into the coming months and years. As indicated by the viewpoint analysis the presence of this vegetation is key to mitigating visual effects. Also, it is often difficult to distinguish between existing aspects that are requiring retrospective permission and those which are approved; mostly because they form an extension that utilises similar materials / form. With regard to the sculpture park / recreational area, the general aesthetics are akin to adjacent 'managed' landscapes and broadly consistent with the appearance of the surrounding 'Estate Farmlands' context. The assessment concludes that the visual effects of the development that requires retrospective permission are localised and very limited. The pre-developed nature of the site and characteristics of the development along with inherent mitigation provided by mature peripheral vegetation means that the development requiring retrospective permission has integrated into its local context.
- 6.6.8 The Council's retained Landscape consultants have commented on the application indicating that they consider that the landscape and visual impact assessment has been carried out in an appropriate and proportionate manner using a robust methodology which has been consistently applied and which would indicate that the proposals subject to this planning application are unlikely to represent a significant change to the baseline conditions. The initial response did raise some concerns with regard to the applicant's approach to effects on landscape character and visual effects and mitigation. The applicants gave further consideration to the concerns as raised and the Council's Landscape Consultant responded indicating that based on the information in the revised LVIA and the landscape strategy they believe that the recommendations made in their August 2018 review of the LVIA have been fully addressed and that the findings of the applicants LVIA may be relied upon.
- 6.6.9 Whilst it is appreciated and acknowledged that the applications LVIA has been

carried out in an appropriate and proportionate manner, the scale of existing development on site is significant and further expansion in the areas marked as 'Sculpture Park' in accordance with detail as set out on the landscape strategy plan (BIC LDS1), has the potential to have a significant landscape and visual effect when viewing the site from the adjacent A5 public highway. It has to be recognised that this is largely a 'retrospective application and presently the field nearest the A5 public highway indicated as a 'sculpture park' contains very few sculptures on site, other than one or two objects, the field having in part been laid down to roadways and understood to be used on occasions as overflow car parking. Concerns with regards to landscape and surrounding clutter are echoed in the response to the application from the Council's Conservation Manager which indicates that at a minimum, consideration should be given to landscape mitigation through a comprehensive and detailed planting scheme, which incorporates aspects of the site's historic setting.

- 6.6.10 These views are shared by Officers, and whilst it is acknowledged that the site does not form part of any landscape designations, landscaping mitigation is welcomed, and it is considered necessary for conditions to be attached to any planning consent in order to ensure a robust planting scheme to assist in integrating this unique development and its associated paraphernia into the surrounding Shropshire countryside. Use as a sculpture park of the field adjacent to the A5 public highway is not considered acceptable and this field in accordance with detail as submitted has the potential to lead to sporadic cluttered development that would not blend in with the existing site campus, representing sporadic development when viewing the site from the adjacent A5 public highway which could also potentially form a distraction to passing motorists. However if this section was to be omitted, then overall impact will be significantly improved. Detail in support of the application also refers to this field as being used in relation to overflow car parking on occasions when 'one off events' take place on site, clearly car parking in such events is a temporary impact and this is considered acceptable. With consideration to these issues and mitigation as discussed, on balance when considered against relevant national and local planning policies, (Policies CS5, CS6, CS13, CS16 and CS17 of the Core Strategy and Policies MD2, MD7b, MD11, MD12 and MD13 of the SAMDev and the overall aims and objectives of the NPPF), with regards to landscape and visual impact the proposal is acceptable. This is considered a significant material planning consideration in relation to the application.

## 6.7 **Impact on surrounding historic environment.**

- 6.7.1 In accordance with the Planning (Listed Buildings and Conservation Area Act 1990, in the exercising of its planning functions local planning authorities must pay special regard to the desirability of preserving listed buildings and their settings or any features of special architectural or historic interest which it possesses.
- 6.7.2 Paragraph 192 of the NPPF indicates that when determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Paragraph 196 of the NPPF indicates where a development proposal will lead to less than substantial harm to the significance of a



designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Paragraph 197 of the NPPF refers to the effect of an application on a non-designated heritage asset which should be taken into account in determining the application and that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 6.7.3 As part of their Landscape and Visual Impact Assessment and Planning Statement the applicants have referred to historic impacts. Whitehall Farm and associated outbuildings has been used as the base for the Ironworks centre for a number of years, which has expanded over time to incorporate a number of modern agricultural buildings, and includes the conversion of a range of historic barns to the rear and side of the main house. The majority of these additions are modern steel framed warehousing and storage buildings, and site landscaping is also affected in order to create a sculpture park and new access. The farmhouse is considered to be a non-designated heritage asset, and sits within close proximity to a number of listed buildings, outside of the site, including Aston Hall, Wootton House and associated parkland buildings and structures, which are Grade II listed. It has been determined that the development as amended will not affect the significance of the above designated assets due to any adverse impacts on their setting. The significance of the late 18th century farmhouse is largely due to its age, condition and character, and its relationship to the historic barn ranges to the north, east and west. It has some architectural value as its position and orientation is a deliberate element of its character, with its principal facade being orientated towards the grounds and former orchard to the south east. The buildings proposed and erected on site are all of an agricultural/industrial style, which are not uncommon in the context of modern farmsteads, and are positioned mainly to the rear of the farmhouse and as extensions to existing modern buildings. Whilst there are wider landscape and visual impacts, the impact from the development on the significance of the farmhouse is negligible; although the character of the historic farmstead as a whole will be altered, this may be viewed as part of an inevitable and sustainable re-use of the historic site, encouraging public access.
- 6.7.4 It is considered that the development under consideration is acceptable in relation to the surrounding historic landscape, its setting and designated historic assets within the surrounding landscape, This includes the farm house at Whitehall Farm, considered a non-designated heritage asset along with the remaining traditional former farm buildings.
- 6.7.5 As such on historic issues with consideration to further native planting mitigation, the proposed development is considered acceptable and in accordance with Policy CS17 of the Shropshire Core Strategy, Policy MD13 of the SAMDev and national legislation and policy as discussed in this section of the report
- 6.8 **Ecology.**
- 6.8.1 The Conservation of Habitats and Species Regulations 2017 requires local planning authorities to give due weight to the presence of protected species on a development site. Planning permission may be granted provided there is no detriment to the maintenance of the species population at favourable conservation

status in their natural range. The Regulations advise that if any detriment would be caused by the proposed development, planning permission should only be granted provided:

- There is no satisfactory alternative; and
- The development is in the interests of public health and safety, or other imperative reasons of over-riding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

- 6.8.2 The NPPF places high importance on protection of biodiversity interests and new development should minimise impacts on biodiversity. Planning permission should be refused where significant harm from a development cannot be avoided. Policies CS12 and MD12 of the Core Strategy and SAMDev Plan respectively are concerned with the conservation and enhancement of the district's biodiversity resources. New development will be expected to contribute a net gain in biodiversity where appropriate. Any adverse impacts upon designated sites will be resisted unless they are unavoidable and can be fully mitigated.
- 6.8.3 It is considered adequate ecological species surveys have been carried out and these have been updated with regards ecological matters in the update report dated 2019.
- 6.8.4 The development site occupies a former farmstead and green field site close to a number of mature trees. The site itself is of limited ecological importance, as explained in the Ecological Appraisal Report. The Council's Planning Ecologist has agreed that the site's ecological importance is limited to potential bat foraging around the existing trees and recommends that any grant of planning permission includes a condition requiring provision of an Owl box and that development is carried out in accordance with the ecological reports submitted in support of the application. Standard informatives' are also recommended to be attached to any approval notice issued as set out in the Ecological response in paragraph 4.10 of this report.
- 6.8.5 Whilst consideration has been given to issues of concerns raised by members of the public, on balance the application on ecological issues is considered acceptable and no Habitats Regulations Assessment is required in relation to this development. As such the application is considered to be in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy and Policy MD12 of the SAMDev and the NPPF in relation to ecological matters.
- 6.9 **Public highway and transportation issues**
- 6.9.1 Policy CS6 of the Core Strategy requires development to be inclusive and accessible. The application site is located alongside the A5 public highway and therefore Highways England are a statutory consultee in relation to this application. This is a busy trunk road route. Paragraph 109 in the NPPF indicates that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Paragraph 111 of the NPPF indicates all developments that will generate significant amounts of movement

should be required to provide a travel plan, and the application should be supported by a transport assessment so that the likely impacts of the proposal can be assessed.

- 6.9.2 Highway access and transportation is an issue that has been a significant concern in relation to this application, (a matter widely commented upon in the local press). Whilst disappointing, it is fully appreciated that the applicants have not complied with condition number 13 attached to the previous planning approval for the site, (reference OS/09/15876/FUL dated 25<sup>th</sup> March 2009), and that development on site has significantly expanded since the granting of the 2009 planning permission. Condition number 13 states:

*“Prior to the commencement of the development the applicant shall undertake access improvements, the design of which shall be in accordance with Highways Agency design standards and to be certified as being complete by the Local Planning Authority in consultation with the Highways Agency.*

*Reason: To ensure that the A5 Trunk Road continues to serve its purpose as part of the national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by minimising disruption to the flow of traffic expected to be generated by the development and to protect the interests of road safety on the trunk road.”*

- 6.9.3 Highways England as the statutory consultee in relation to the trunk road network have responded to the application recommending that a number of planning conditions be imposed in the interests of maintaining highway safety and the efficient operation of the A5 Trunk Road. The response acknowledges that the applicants have submitted an Events Traffic Management Plan and Parking Management Strategy that will relate to the discharge of two of their recommended conditions and that following a review of these and further clarification from the applicants that they are content that development on site is suitable subject to conditions attached to any approval notice subsequently issued. However with consideration to the site’s planning history and potential traffic issues arising from the development, Highways England considers it will be necessary that events are subject to periodic review as circumstances regarding operation of the site and traffic on the A5 past the site access are likely to be subject to change over time. The response from Highways England indicates that recommended conditions 2 and 3 be subject to an initial review after 12 months and then a further series of reviews at a timescale to be then agreed as part of the ongoing maintenance of these plans. The response is clear in that highway works to the A5 trunk road remains an urgent requirement for delivery of the necessary infrastructure required to mitigate the traffic arising from the day-to-day operations of the site.

- 6.9.4 The suggested conditions and reasons suggested by Highways England are:

*“Condition 1:*

*Prior to the expiration of 12 months following date of this notice, the highways works to the A5 trunk road that form part of this permission, as detailed within drawing no. BI-AP-100, shall commence. These works shall be completed in full.*

*Reason: In the interests of maintaining highway safety and the efficient operation of the A5 Trunk Road*

*Condition 2:*

*The approved Parking Management Strategy shall be implemented in full accordance with the approved details. Following 12 months of the date of this permission the Parking Management Strategy shall be reviewed and an updated version shall be submitted to and be approved by the Local Planning Authority, in consultation with the Highways Authority for the A5 Trunk Road, alongside evidence that demonstrates the effectiveness of the existing strategy. The updated document shall take account of any further measures that may be identified as being necessary and shall be amended to reflect any changes to the site layout, parking provision or management. A strategy for ongoing periodic review of the Parking Management Strategy and any other necessary triggers points for review shall be detailed and agreed with the Local Planning Authority. The plan shall continue to ensure that offsite parking on the A5 trunk road does not occur.*

*Reason: In the interests of maintaining highway safety and the efficient operation of the A5 Trunk Road*

*Condition 3:*

*The Event Management Plan shall be implemented in full accordance with the approved details. Following 12 months of the date of this permission the Event Management Plan shall be reviewed and an updated version shall be submitted to and be approved by the Local Planning Authority in consultation with the Highways Authority for the A5 Trunk Road, alongside evidence that demonstrates the effectiveness of the existing Plan. The updated document shall take account of any further measures that may be identified as being necessary and shall be amended to reflect any changes to the site layout, parking provision or management. A strategy for ongoing periodic review of the Event Management Plan and any other necessary triggers points for review shall be detailed and agreed with the Local Planning Authority. The event management plan shall continue to ensure that volume of traffic utilising the site entrance to the A5 trunk road is managed and controlled where it is identified that the volume of traffic arriving or departing the site may give rise to concerns about the operation of the road.*

*Reason: In the interests of maintaining highway safety and the efficient operation of the A5 Trunk Road*

- 6.9.5 The development on site generates significant transport movements and is heavily dependent on private motor car use as beyond the typical day-to-day operation of the site, special events at the British Ironwork Centre are a common feature of its operation. Events are likely to result in higher than typical development traffic flows utilising the site access. A review of the event schedule for the British Ironwork Centre, as displayed on its website, notes several music, children's and charitable orientated events which are likely to prove to be popular. Where the traffic implications of such events may be significant then these should be managed to ensure vehicular traffic can safely access and egress the site via the A5. With this in mind as well as consideration to the site's planning history it is considered that the Highways England suggested conditions with slight re-wording are reasonable

and necessary.

- 6.9.6 Detail as contained in the applicants Transport Assessment have also been reviewed by the Council's highways officer. Their comments are also set out above. In summary, the response acknowledges that as the development is served by the A5 it is the responsibility of Highways England. No other public highways are included within the red line, on the site plan, however within the blue line there is an outline of an access off the B5009. It is understood this access has only appeared in recent years, with no record available that it has permission to be there. An access off a classified road requires planning permission. To ensure this access is not used to service the development site, it is recommended by SC Highways, that this access be stopped up permanently, with this action linked to any approval the application may receive. It is recommended that the access hardstanding surface is completely removed with the fence and hedge line reinstated. As such on highway matters it is considered necessary to also attach to any approval notice issued a further condition stating:

*“Vehicular use of the access that is contained within the blue line area shown on the Location Plan SA29520/01, to the B5009 shall cease with immediate effect and be permanently closed and the boundary hedge and fence reinstated within two months of the date of this planning permission*

*Reason: In the interests of highway safety”.*

- 6.9.7 Whilst the development is considered significant and is heavily reliant on private means of transport, and the comments made by Oswestry Rural Parish Council are noted,, it is considered that development on site is well placed in relation to a satisfactory highway network and that with conditions attached to any approval notice as discussed in this report that on balance the development is considered acceptable in relation to highway and transportation matters.

## 6.10 **Impact on the Public Rights of Way**

- 6.10.1 Public footpaths no's 79 and 80 run along the access driveways to and from the Ironworks site. The Council's Public Rights of Way Manager raises no objections.

## 6.11 **Drainage**

- 6.11.1 Policy CS18 of the Core Strategy requires developments to integrate measures for sustainable water management to reduce flood risk, to avoid adverse impacts upon water quality and quantity and to provide opportunities for biodiversity, health and recreation enhancements. SAMDev Policy MD2 encourages the incorporation of sustainable drainage techniques in new developments. Policy MD8 refers to the provision of water treatment infrastructure and the need to consider impacts on water quality and on the sewerage network.
- 6.11.2 A flood risk assessment and drainage strategy accompanies the application and these raise no issues of concern in relation to surface and foul water drainage.
- 6.11.3 However with consideration to concerns raised by a member of the public an officer

from the Environment Agency visited the site on 28 September 2018 to inspect the foul drainage system. The applicant had also been taking water meter readings in order to estimate a daily volume of sewage generated by the business. It is believed that on average the business generates about 3.9 cubic metres of sewage effluent a day. The information provided in the drainage report and in the drainage plan is considered reasonably accurate. The existing system of the two septic tanks is currently unsatisfactory however and has led to localised septic tank pollution of the dry ditch course which flows along the western site boundary.

- 6.11.4 It is not clear how effluent from the larger three bay septic tank has gained access to the ditch course however the applicant has agreed to replace the tank with a modern sewage treatment plant to British Standard BS EN 12566. The EA have also indicated they would also require the existing soakaway system to be investigated and improved.
- 6.11.5 The smaller septic tank (labelled tank 4 on the block plan) is unsatisfactory as it is sited too close to the surface water ditch. There is clear evidence of septic tank effluent from the tank in the adjacent ditch. The EA recommend that this septic tank is discontinued and the foul drainage connected to one main package treatment plant.
- 6.11.6 The Government allows small businesses to operate to General Binding Rules (GBR) without the need for an Environmental Permit in relation to. Black Country Metal Works Limited however will exceed the permitted volume of treated effluent which could be discharged into the ground under the GBR. The Agency has thus recommended that the Company apply for an Environmental Permit in order to regulate this activity.
- 6.11.7 With consideration to advice received from the Environment Agency it is recommended that a condition is attached to any approval notice issued in order to ensure a scheme for the disposal of foul effluent has been submitted to, and approved in writing by, the local planning authority, and is then implemented in a reasonable time.
- 6.11.8 Otherwise the site is located in Flood Zone 1 (low probability), and while there is a change of use from agricultural land, the site will remain essentially open land. It is noted the Council's Drainage Manager has assessed the proposal and confirms that he has no objections, drainage as proposed considered acceptable. As such, and with consideration to the advice from the Environment Agency, with a condition attached to any approval notice as recommended, it is considered that the proposed development is overall in accordance with Policies CS18 and MD2 of the SAMDev and the NPPF on this matter.
- 6.12 **Residential and amenity issues.**
- 6.12.1 Policy CS6 in the Core Strategy indicates that all development should contribute to the health and wellbeing of communities which includes safeguarding residential and local amenity. Whilst it is considered that the site itself (and especially the centre of the site centred on the former farmstead), is a suitable distance from the nearest residential receptors outside the applicants control, light and noise pollution

could still be a potential issue.

- 6.12.2 The applicants have submitted a noise assessment, and its conclusions are considered acceptable. The Council's Regulatory Services Manager raises no objections to the application indicating that whilst the proposals may increase noise in the locality from activities on site, it is unlikely to significantly raise noise levels to a point considered to have a significant impact on amenity of nearby residents.
- 6.12.3 External lighting matters are also considered acceptable based on information as submitted and it is recommended that this matter is subject to a condition attached to any planning approval granted.
- 6.12.4 As such on balance in relation to residential amenity and privacy matters the application is considered acceptable.
- 6.13 **Other matters.**
- 6.13.1 Concerns have been raised that as the application is mostly retrospective and that the site is visited by members of the public and that Building Regulations is an issue of concern. This is a separate matter that is being looked into by the Council's Building Regulations Team and is not a direct material planning consideration in relation to this application.
- 6.13.2 In accordance with recognised good practice the applicants have submitted, a report on Community involvement, and whilst this recognises that there was no formal consultation process, the business on site regularly gathers and encourages public feedback and engagement. The business is involved in charity related activities and there has been considerable support of the application from recognised 'good causes' as well as many letters of support from members of the public. Further detail on this aspect is available on the Council's application website.
- 6.13.3 Concerns have been raised in a letter of objection with regards to animals buried on site as a result of foot and mouth. This matter has been brought to the attention of the Council's Regulatory Services and they have concluded that they do not consider there to be any significant risk to be assessed.
- 6.13.4 Comment has been made with regards to concerns that this application is largely retrospective in relation to unauthorised development. The planning system and its processes allow for retrospective applications for planning permission, which in itself is not unlawful. It is at the applicants risk, as to whether planning permission is granted or not. All applications have to be assessed in relation to relevant planning policies and material planning considerations.
- 6.13.5 Comment has also been made with regards to on-site security, this is not a direct planning matter and in any case Officers are aware that the applicants have an on-site CCTV security system that appears to operate satisfactorily.

7.0 **THE PLANNING BALANCE.**

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The starting point must be the Development Plan and then other material considerations must be considered.
- 7.2 Having carefully considered the proposal against adopted planning policy and guidance, it is clear that the development is in some instances contrary to the local development strategy. The application was advertised as a departure to the development plan.
- 7.3 The NPPF identifies three mutually dependent dimensions to sustainable development, which should be sought jointly and simultaneously through the planning system, namely: an economic role; a social role; and an environmental role. Officers consider there will be some economic, social and environmental benefits arising from the development, mainly attributable to economic activity in relation to the surrounding area, location of the site in a suitable location in relation to adjacent public highway, and landscape and visual impact, (site has no detrimental impact on landscape designations or on the historic environment), and no adverse impacts on surrounding residential amenity and privacy etc. (all be it with consideration to conditions as discussed in this report), These all weigh in favour of the development.
- 7.4 However, as also referred to in the report the development as existing on site does not in totality accord with all local plan policies and in particular in relation to retailing from the site and as such this issue needs careful consideration. However the site is unique in its origins being primarily themed on metal works and acts as a focal point in relation to charity and fundraising events which includes educational activities, For example, the business is well known for its sculpture 'the Knife Angel' which is currently being put on display in a number of UK Cities in order to draw attention to concerns about knife crime, This is aimed at the educating of the public with regard to the consequences of knife crime. As indicated the site is based on a theme and the retail impact assessment has demonstrated that impacts on the nearby town of Oswestry and its surrounding area are acceptable subject to a condition attached to any approval notice issued in order to control the amount and type of retailing from the site.
- 7.5 Also of significant concern with regard to the present unauthorised development is public highway access into and out of the site onto the A5 public highway. Based on information submitted in support of the application Highways England consider this matter can be addressed to a satisfactory level subject to suitably worded conditions attached to any approval notice .
- 7.6 Another significant and key matter in relation to development on site is landscape and visual impact and it is considered that this matter is crucial in the decision making process and a very important material consideration. The site is focused on a former traditional farmstead which retains much of its original character all be it as part of a much wider built form and scale than the original development on site.



The site is not affected by any landscape designations and impacts on the surrounding historic environment are considered acceptable. Nevertheless development on site as indicated in this report is unique and not typical of the Shropshire landscape. However as part of the planning balance weight has to be given to the social and economic benefits which in this case appear significant. It is considered that the environmental harm will not be significant with consideration to area of the Sculpture Park being in accordance with conclusions drawn in this report and conditions attached to any approval notice issued in order to ensure adequate and satisfactory landscape mitigation. With these in place it is considered landscape and visual impacts can be addressed satisfactorily. This tips the balance in favour of supporting the application despite it being advertised as a departure from the local plan as with acceptable landscape and visual impacts, there are significant economic and social reasons on which basis to support this application.

## 8.0 CONCLUSIONS

8.1 Taking into consideration the significant material considerations as discussed in this report, with appropriate and suitably worded conditions the development is in accordance with many of the local plan policies. Furthermore, on balance any material harm in relation to aspects of the development that do not accord with the relevant local plan policies is outweighed by the material considerations and economic and social benefits associated with the development on site.

8.2 As such with careful consideration to all the material considerations both for and against, it is recommended that this application be approved subject to the conditions as outlined in appendix 1 and any amendments to these conditions as considered necessary by the Head of Service.

## 9.0 Risk Assessment and Opportunities Appraisal

### 9.1 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.

## 9.2 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.

## 9.3 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.

## 10.0 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.

## 11. Background

### Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework  
National Planning Policy Guidance.

:

Local Plan Policies in the Core Strategy and Site Allocations and Management of Development DPD.:

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS5 - Countryside and Greenbelt  
 CS6 - Sustainable Design and Development Principles  
 CS13 - Economic Development, Enterprise and Employment  
 Economic Development, Enterprise and Employment  
 CS15 - Town and Rural Centres  
 CS16 - Tourism, Culture and Leisure  
 CS17 - Environmental Networks  
 CS18 - Sustainable Water Management  
 MD1 - Scale and Distribution of Development  
 MD2 - Sustainable Design  
 MD4 - Managing Employment Development  
 MD7B - General Management of Development in the Countryside  
 MD10A - Managing Town Centre Development  
 MD10B - Impact Assessments for Town and Rural Centres  
 MD11 - Tourism Facilities and Visitor Accommodation  
 MD12 - Natural Environment  
 MD13 - Historic Environment  
 National Planning Policy Framework

#### RELEVANT PLANNING HISTORY:

OS/09/15876/FUL Change of use of farm buildings to office and business suite, plus use of porta farm building for storage of trade only, ironmongery, plus mail distribution plus alterations to office space at Whitehall Farm together with associated works. Approved 25<sup>th</sup> March 2009.

16/04624/FUL Retrospective section 73A application for a mixed use rural enterprise scheme comprising of retail (A1), café (A3), business, storage/distribution and warehouse (B1, B2 and B8), recreational outdoor activities (D2), Drinking establishment (A4), alterations to existing access, formation of visitor parking, retention of existing buildings on site together with erection of new buildings, associated landscaping, outdoor theatre (sui generis) and external engineering operations including internal access tracks, mini railway and crazy golf course.  
WDN 21st December 2017

18/02657/FUL Application under Section 73A of the Town Country Planning Act 1990 (as amended) for regularisation of extensions to existing buildings together with lawful uses relating to a mixed use rural enterprise (A1, A3, B1, B2 and B8); improvements to existing vehicular access including creation of visibility splay; change of use of land to sculpture park and car parking areas PCO

#### 12. Additional Information

The Council's application website

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr Gwilym Butler.
Local Member Cllr Joyce Barrow
Appendices APPENDIX 1 - Conditions

**APPENDIX 1****Conditions****STANDARD CONDITION(S)**

1. The development shall be carried out strictly in accordance with the approved plans and drawings

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

2. Prior to the expiration of 12 months following the date of this notice, the highways works to the A5 trunk road that form part of this permission, as detailed within drawing no. BI-AP-100, shall be completed in full.

Reason: In the interests of maintaining highway safety and the efficient operation of the A5 Trunk Road.

3. Notwithstanding the approved plans a Parking Management Strategy shall be submitted to the Local Planning Authority within 6 months of the date of this decision notice. The plan shall detail how parking shall be managed within the site to ensure that off-site parking on the A5 trunk road does not occur. All works identified in the strategy shall be completed within 12 months of confirmation of the strategy being acceptable in writing from the Local Planning Authority (in consultation with the Highway Authority for the A5 Trunk Road) and shall be retained for the lifetime of the development as approved.

Reason: In the interests of maintaining highway safety and the efficient operation of the A5 Trunk Road and to address concerns raised by Highways England.

4. Within 6 months of the date of this decision notice, an Event Management Plan shall be submitted to the Local Planning Authority for approval in writing in consultation with the Highway Authority for the A5 Trunk Road. The plan shall detail how traffic shall be controlled on days where organised and publicised events take place. The Event Management Plan shall ensure that traffic using the site entrance to the A5 trunk road is managed and controlled where it is identified by the Local Planning Authority in conjunction with Highways England that the volume of traffic arriving or departing the site may give rise to concerns about the operation of the A5 trunk road. The event management plan shall ensure that parking on site is managed in order to prevent off-site parking on the A5 trunk road. and this shall be adhered to for the lifetime of the development as approved.

Reason: In the interests of maintaining highway safety and the efficient operation of the A5 Trunk Road.

5. Vehicular use of the access that is contained within the blue line area shown on the Location Plan SA29520/01, onto the B5009 public highway shall cease with immediate effect and be permanently closed and the boundary hedge and fence reinstated within 8 months of the date of this planning permission in accordance with detail to be submitted to the Local

Planning Authority and approved in writing. Works will be carried out and maintained as approved.

Reason: In the interests of highway safety

6. Within 3 months of the date of this planning approval a scheme for the disposal of foul effluent will be submitted to the Local Planning Authority for approval in writing. The scheme shall be fully implemented as approved in accordance with an agreed timetable.

Reason: To prevent pollution of the water environment.

7. Notwithstanding the approved plans, the field located adjacent to the A5 public highway indicated as use for a Sculpture Park on the southern side of the site as indicated on landscape strategy plan number BIC LDS1 shall not be used for the display of sculptures and shall, only be used for overflow car parking use in accordance with any details approved as part of the Parking Management Strategy approved under the requirements of Condition 3 to this permission

Reason: In consideration of visual and landscape impact.

8. Landscaping shall be undertaken strictly in accordance with the details in the application together with further native tree and hedge planting, details of which shall be submitted for approval to the Local Planning Authority within 6 months of the date of this decision notice. All landscaping and planting shall be carried out as agreed within the first recognised planting season following approval of the further details. Any species that fail within the first five years of planting will be replaced with species of similar variety and size.

Reason: In consideration of landscape and visual impact.

9. The total retail floor space on site including provision for onsite cafe facilities and reception/visitor information area is to be no more than 811 square metres in total in accordance with the current use as indicated on the approved plans and in the Retail Impact Assessment submitted in support of the application. The use will be restricted to the sale of goods relating to home and garden ironmongery related products only and this includes the present areas in use for 'indoors' on site themed displays and educational initiatives.

Reason: In order to control the amount and type of retailing on site in consideration of impacts on Oswestry Town Centre and the surrounding area.

10. Within 6 months of the date of this decision notice, details for the provision of a barn owl box shall be submitted for approval in writing by the Local Planning Authority. A nesting box shall be provided for barn owls in a suitably mature tree in the eastern boundary hedgerow. The box shall be erected in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To secure the long-term protection of barn owls.

11. All development, demolition, site clearance, landscaping and biodiversity enhancements shall occur strictly in accordance with the Environmental Appraisal (Greenscape Environmental, March 2017) and Brief Landscape Management Plan (Greenscape Environmental, April, 2017). Works shall be overseen and undertaken, where appropriate, by a

licensed, suitably qualified and experienced ecologist. All necessary works will be completed within 12 months of the date of this decision notice.

Reason: To ensure the protection of and enhancements for wildlife.

12. Within 2 calendar months of the date of this decision notice details will be submitted to the local planning authority for approval with regard to all external lighting on site. Detail will be carried out as agreed in writing within 6 months of the date of confirmation that the detail as submitted is acceptable. External lighting on site will avoid light spill off site and no light glare with all lighting set to shine down below the horizontal to reduce sky glow.

Reason: In consideration of the amenity of the surrounding area and to avoid adverse light pollution.

### **Informatives**

1. This planning permission does not authorise the applicant to:
  - o construct any means of access over the publicly maintained highway (footway or verge) or
  - o carry out any works within the publicly maintained highway, or
  - o authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
  - o 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.

2. 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, scrub removal and/or conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from mid-March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

If during construction birds gain access to any of the building[s] and begin nesting, work must cease until the young birds have fledged.

3. The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

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.

4. It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

During all works on mature trees there is a very small risk of encountering bats which can occasionally be found roosting in unexpected locations. Contractors should be aware of the small residual risk of encountering bats and should be vigilant when working on mature trees, particularly where cracks and crevices or thick ivy covering are present. Any cracks and crevices should be visually inspected prior to the commencement of works on the tree and if any cracks or crevices cannot easily be seen to be empty of bats then an experienced, licensed bat ecologist should be called to make a visual inspection using an endoscope and to provide advice on tree felling.

Works on trees with high bat roosting potential (aged or veteran trees with complex crevices and areas of dead wood) should not be undertaken without having first sought a bat survey by an experienced, licensed ecologist in line with the Bat Conservation Trust's Bat Survey: Good Practice Guidelines (3rd edition). Felling and tree surgery work should only be undertaken in line with guidance from a licensed ecologist and under a European Protected Species Mitigation Licence where necessary.

If a bat should be discovered on site then development works must halt and a licensed ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

5. Badgers, their setts and the access to the setts are expressly protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or control a badger; to damage, destroy or obstruct access to a sett; and to disturb a badger whilst it is occupying a sett.

No development works or ground disturbance should occur within 30m of a badger sett without having sought advice from an experienced ecologist and, where necessary, without a Badger

Disturbance Licence from Natural England. All known badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.

There is an unlimited fine and/or up to six months imprisonment for such offences. Items used to commit the offence can also be seized and destroyed.

6. Water voles are protected under the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to kill, injure or take a water vole; to damage, destroy or obstruct access to their places of shelter; and to disturb a water vole while using a place of shelter. There is an unlimited fine and/or up to six months imprisonment for such offences.

Water voles make burrows in stream banks and can be present up to 5m from the watercourse and can be disturbed by activity, especially the use of heavy machinery and vibration occurring within 10m or so of the top of the bank. Care should be taken alongside the stream during the construction and operation of the site. If works are proposed to the stream or banks in the future then an experienced ecologist should be engaged to provide advice prior to any works being carried out.

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Committee and Date  
 North Planning Committee  
 30<sup>th</sup> April 2019

Item  
**8**  
 Public

## 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

### SCHEDULE OF APPEALS AS AT 30<sup>th</sup> April 2019

#### Appeals Lodged

<b>LPA reference</b>	18/04556/COU
<b>Appeal against</b>	Refusal of Planning permission
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs White – C/O The Planning Group Ltd
<b>Proposal</b>	Application under Section 73A of the Town and Country Planning Act 1990 for change of use of grassed area to residential curtilage (retrospective)
<b>Location</b>	Land East Of Rose Cottage Primrose Lane Prees
<b>Date of appeal</b>	04.04.19
<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>	

**Appeals determined**

<b>LPA reference</b>	18/01420/PMBPA
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Paul Goulding
<b>Proposal</b>	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use (re-submission)
<b>Location</b>	Proposed Barn Conversion Northwood Ellesmere Shropshire
<b>Date of appeal</b>	23.01.2019
<b>Appeal method</b>	Written Reps
<b>Date site visit</b>	25.03.2019
<b>Date of appeal decision</b>	10.04.2019
<b>Costs awarded</b>	No
<b>Appeal decision</b>	<b>Allowed</b>

<b>LPA reference</b>	18/04738/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Arran Pritchard
<b>Proposal</b>	Conversion of dwelling (Use Class C3) to house in multiple occupation (HMO) (Use Class Sui Generis) to include 11 en-suite bedrooms and alterations to windows and door
<b>Location</b>	11 Ferrers Road Oswestry SY11 2EY
<b>Date of appeal</b>	23.01.2019
<b>Appeal method</b>	Written Reps
<b>Date site visit</b>	25.03.2019
<b>Date of appeal decision</b>	10.04.2019
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Dismissed</b>

<b>LPA reference</b>	18/03725/OUT
<b>Appeal against</b>	Refusal of planning permission
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs Davies – C/O Berrys
<b>Proposal</b>	Outline application for a single dwelling (all matters reserved)
<b>Location</b>	Land At Weston Common Weston Lullingfields Shropshire
<b>Date of appeal</b>	23.01.19
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	25.03.19
<b>Date of appeal decision</b>	11.04.19
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	18/04414/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Terry Edwards
<b>Proposal</b>	Erection of part two storey part single storey extension(s)
<b>Location</b>	1 Brick Kiln Cottage, Racecourse Rd, Oswestry, SY10 9PJ
<b>Date of appeal</b>	14.03.2019
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	18.10.18
<b>Date of appeal decision</b>	15.04.19
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

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## Appeal Decision

Site visit made on 25 March 2019

**by Alexander Walker MPlan MRTPI**

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

**Decision date: 10<sup>th</sup> April 2019**

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**Appeal Ref: APP/L3245/W/18/3216271**

**Barn East of Northwood Villa, Ellesmere Lane, Northwood, Ellesmere, Shropshire SY12 0LU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015.
  - The appeal is made by Mr Paul Goulding against the decision of Shropshire Council.
  - The application Ref 18/01420/PMBPA, dated 22 March 2018, was refused by notice dated 15 May 2018.
  - The development proposed is for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use.
- 

### Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the change of use from agricultural to residential use at Barn East of Northwood Villa, Ellesmere Lane, Northwood, Ellesmere, Shropshire SY12 0LU in accordance with the details submitted pursuant to Schedule 2, Part 3, Class Q of the GPDO, subject to the following conditions:
  - 1) The development hereby permitted must be completed within a period of three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 1:1250, Site Plan 1:500, Proposed Elevations, Proposed Floor Plan, Sectional Details and Survey.
  - 3) Prior to the first occupation of the hereby approved dwelling, details for the parking and turning of vehicles shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be maintained at all times for that purpose.
  - 4) Prior to the first occupation of the hereby approved dwelling, details of the improved layout and construction of the existing means of access, including sight lines and details of the disposal of highway surface water, shall be submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

- 5) Prior to the first occupation of the hereby approved dwelling, a scheme of foul drainage, and surface water drainage shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the first occupation of the development.

### **Application for costs**

2. An application for costs was made by Mr Paul Goulding against Shropshire Council. This application is the subject of a separate Decision.

### **Procedural Matters**

3. I have used the description set out in the Council's decision notice as this accurately describes the proposed development.

### **Main Issue**

4. The main issue in this appeal is whether the proposed change of use constitutes permitted development pursuant to Class Q of Part 3 of Schedule 2 to the GPDO, having regard to the extent of the works proposed, and the effect of the proposal on the appearance of the building.

### **Reasons**

#### *Extent of Works*

5. Class Q.1 (i)(i) states that development is not permitted if it would consist of building operations other than the installation of windows, doors, roofs or exterior walls or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse. Planning Practice Guidance<sup>1</sup> (PPG) recognises that for a building to function as a dwelling some building operations which would affect the external appearance of the building should be permitted. It goes on to state that internal works are not generally development and for the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q. However, it is not the intention to include the construction of new structural elements for the building. The existing building should be structurally strong enough to take the loading which comes with the external works to provide for residential use. Consequently, it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide the residential use that the building would be considered to have the permitted development right.
6. There is no dispute between the parties that the existing building is structurally sound and in good condition. The existing steel frame, roof and concrete floor would be retained. Approximately 50% of the existing block walls would be removed due to the creation of new openings or replaced with timber cladding. The proposed timber cladding would be attached to a timber frame that would be affixed to the remaining block walls and the steel frame. The appellant confirms that the internal walls would be supported by the existing steel frame, blockwork and concrete floor.

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<sup>1</sup> Paragraph: 105 Reference ID: 13-105-20180615

7. I acknowledge the Council's argument that the building is utilitarian and designed for housing cattle. That is the case for many agricultural buildings. The building is single-skin and therefore it is not unreasonable for works to be carried out to make the building weatherproof. The GPDO recognises this by allowing works to such buildings in order to convert them into dwellings. The Council also state that the building is not capable of functioning as a dwelling in its current state. However, it need not be. The GPDO permits reasonably necessary works to enable the building to function as a dwelling.
8. The proposal would involve the creation of the internal walls and the replacement of approximately 50% of the existing walls, which would be facilitated by the installation of a non-structural timber frame. I do not consider that these works go beyond what is reasonably necessary for the conversion of the building.
9. I find therefore that the appeal building is capable of conversion and the proposal would only consist of building operations reasonably necessary for the building to function as a dwellinghouse and therefore does not conflict with Class Q.1 (i)(i) of the GPDO.

#### *Appearance*

10. As I have found that the proposal would be permitted development, I now consider the prior approval matters. The Council raise no objection regarding transport and highways impacts of the development, noise impacts of the development, contamination risks on the site, flooding risks on the site, and whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Based on the evidence before me and the observations I made on site, I find no reason to conclude otherwise.
11. The existing building has concrete block and timber clad walls and a sheet clad roof. There are a number of openings, both large and small. The simple, utilitarian design and materials are typical of an agricultural building of this nature.
12. The proposal would create a number of new openings and utilise existing ones. Whilst some of these openings are large, they reflect the proportions of the building and the existing openings. I do not consider that the increase in the number of openings would detract from the agricultural appearance of the building.
13. Overall, whilst there would be a greater number of openings, some of which are larger than existing, I do not find that these would have a significantly harmful effect on the traditional agricultural appearance of the building, particularly as the existing roof and much of the blockwork would be retained and new timber cladding would be installed.

#### **Other Matters**

14. The appellant has referred me to a recent prior approval application that was refused by the Council for a similar proposal for the conversion of the appeal building. However, as I have found that proposal that is the subject of this appeal is acceptable, the scheme referred to me has had no bearing on my decision.

15. Furthermore, I have had regard to the recent scheme approved by the Council at Barns Farm. I note that there are some similarities with the proposal before me regarding the construction of the building. However, I have determined the appeal based on its own individual merits.

### **Conditions**

16. I have imposed conditions to ensure that, in accordance with the GPDO, development must be carried out within three years from the date of this decision and in compliance with the approved plans.

17. In the interests of highway safety, conditions are necessary regarding parking and turning provision and means of access. Furthermore, in the interests of public health and flooding, a condition is necessary regarding drainage. The Council suggests that the conditions regarding these matters should be pre-commencement conditions. However, I find no reason why works cannot commence on the conversion of the building prior to these details being agreed.

### **Conclusion**

18. For the reasons given above, I find that the proposed change of use is permitted development under Class Q and as such, having considered all matters raised, the appeal is allowed and approval granted.

*Alexander Walker*

INSPECTOR





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## Costs Decision

Site visit made on 25 March 2019

**by Alexander Walker MPlan MRTPI**

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

**Decision date: 10<sup>th</sup> April 2019**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/18/3216271 Barn East of Northwood Villa, Ellesmere Lane, Northwood, Ellesmere, Shropshire SY12 0LU**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Paul Goulding for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use.
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellant's application for costs is on the basis that the Council has acted unreasonably by misinterpreting the purpose of the timber frame that would support the new timber cladding.
4. Para 5.0 of the Structure Report carried out by G Philip Hughes, dated September 2017 refers to the 'construction of standalone structure to subdivide the internal space for habitation, but utilising the existing building envelope for cover.' I note that the applicant confirms that the internal walls would be supported by the existing framework and floor of the building. Notwithstanding this, I understand why the Council interpreted the Structure Report as they did as it is not explicitly clear what is meant by the 'standalone structure.'
5. I therefore conclude that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, an award for costs is therefore not justified.

*Alexander Walker*

INSPECTOR

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## Appeal Decision

Site visit made on 25 March 2019

**by Alexander Walker MPlan MRTPI**

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

**Decision date: 10<sup>th</sup> April 2019**

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**Appeal Ref: APP/L3245/W/18/3218369**

**11 Ferrers Road, Oswestry SY11 2EY**

- 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 Arran Pritchard on behalf of Pritchard Property ( Lloyds ) Ltd against the decision of Shropshire Council.
  - The application Ref 18/04738/FUL, dated 12 October 2018, was refused by notice dated 5 December 2018.
  - The development proposed is the Conversion Of Dwelling (Use Class C3) To House In Multiple Occupation (HMO) (Use Class Sui Generis).
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development on the appearance of the area, including the setting of the Oswestry Conservation Area (the CA); the effect on the living conditions of the occupants of neighbouring residential properties, with regard to public health; and, whether the proposal would provide adequate living conditions for future occupants, with regard to outdoor amenity space.

### Reasons

#### *Appearance*

3. Ferrers Road is a predominantly residential road comprising a mix of property styles and sizes, including two and three-storey, semi-detached, detached and terrace dwellings. Properties are positioned close to the road and have a mix of hard and soft boundary treatments. Whilst there is variety in house styles, there is some consistency in their architecture with gable elements, red brick, pitched roofs and bay windows being common features. Overall, the Road has a pleasant suburban appearance.
4. The CA abuts the northern boundary of the site. Whilst not within the CA, the appeal building continues the architectural rhythm of the adjacent terrace properties within the CA, which continues along the road. Therefore, the appeal property makes an important contribution to the setting of the CA.
5. The occupation of the building by 11 people would require a number of waste receptacles. The appellant states that a 1100 litre storage bin would be used in addition to the usual local authority bins. The submitted drawing indicates a

bin storage area. However, this appears to be significantly inadequate in size to meet the needs of the occupants of the building. There is no indication on the drawings submitted as to where all of these bins would be stored, particularly as most of the rear amenity space would be used for parking.

6. I have had regard to the appellant's contention, supported by the evidence regarding HMOs in Wrexham, that the number of cars used by the occupants of the building would be far less than the Council's requirement of 10 parking spaces. However, the Council makes a compelling argument that Wrexham is a considerably larger town than Oswestry, offering a larger range of services and facilities than Oswestry and therefore the need for private cars would likely be less. Furthermore, there is already a high demand for on-street parking on Ferrers Road, which I observed during my site visit in the early afternoon of a weekday. Whilst this was only a snap-shot in time, there is no evidence to suggest that it was not representative of the general parking situation.
7. Therefore, notwithstanding the appeal site's accessibility to the town centre, based on the evidence before me, a reduction in the number of parking spaces proposed would be harmful to highway safety. I note that the red edged area on the location plan excludes the eastern corner of what is depicted on the site plan, which includes approximately two car parking spaces. Therefore, it is not certain whether the proposed parking spaces can even be provided. Accordingly, it is reasonable to conclude that bins would likely be stored at the front of the property, which would significantly detract from the appearance of the streetscene and the adjacent CA, particularly given the potential size and number of them. Given the limited space available to the rear of the property, were I minded to allow the appeal, I am not satisfied that an appropriately worded condition could secure adequate bin storage without significant harm to the appearance of the streetscene and the setting of the CA.
8. The proposed 11 en-suites would require adequate plumbing, including waste pipes. The appellant confirms that these could be installed internally, thus having no harmful effect on the external appearance of the building. The only other external alterations to the building would be to swap the position of a door and window in the south elevation (referred to as the west elevation on the submitted drawings) and the replacement of a door for a window on the east elevation (referred to as the south elevation). Both of these elevations would not be seen from the public domain and unlikely to be seen from the CA. Accordingly, I find that these alterations would not harm the appearance of the area or the setting of the CA.
9. I have had regard to the Local Highway Authority's suggestion that the access should be widened to enable simultaneous entry and exit of vehicles. Such works would require the removal of part of the front boundary wall. There is a variety of boundary treatments and access widths along the road. I do not consider that the loss of part of the wall would have a harmful effect on the appearance of the streetscene or the setting of the CA.
10. I find therefore that by reason of the lack of information demonstrating that adequate bin storage could be provided, the proposal would have a significantly harmful effect on the appearance of the streetscene and the setting of the CA. It would detract from the setting of the CA and thus fail to preserve or enhance the appearance of this designated area, to which I attach considerable importance and weight. While the harm to the significance of the CA would be

less than substantial in this case, it has not demonstrated that there are public benefits that would outweigh this harm.

11. I therefore conclude that the proposal would be contrary to Policies CS6 and CS17 of the Shropshire Adopted Core Strategy (CS) 2011, which, amongst other matters, seek to ensure that all development protects, restores, conserves and enhances the natural, built and historic environment and does not adversely affect the visual values of these assets. It would also be contrary to Policy MD13 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan 2015, which seeks to ensure that proposals avoid harm to heritage assets, including their settings. Furthermore, it would fail to accord with the design objectives of the National Planning Policy Framework.

#### *Living Conditions of Neighbouring Residents*

12. Due to the lack of evidence regarding the provision of adequate bin storage, it is possible that given the number of people residing at the property, the amount of waste generated could represent a realistic health hazard with the potential to attract pests and vermin. Such a hazard would have an unacceptable risk to the health and wellbeing of neighbouring residents, as well as the future occupants of the property.
13. I find therefore that the proposal would significantly harm the living conditions of the occupants of neighbouring residential properties. As such, the proposal would be contrary to Policy CS6 of the CS, which seeks to ensure that development contributes to the health and wellbeing of communities. It would also fail to accord with the guidance set out in the Shropshire Type and Affordability of Housing (SPD) 2012, which seeks to ensure that development provides good quality housing and avoids detrimental impacts on neighbours.

#### *Living Conditions of Future Occupants*

14. The existing rear amenity space would be used for the proposed car parking and bin store. The only remaining usable area for private amenity space would therefore be the front garden. However, the height of the front boundary enables clear views into the garden and therefore affords it no privacy. I have had regard to the erection of a boundary treatment to ensure that there is suitable privacy. However, the height of a suitable wall or fence would likely be significantly harmful to the streetscene and the setting of the CA. Furthermore, the size of the front garden is insufficient to meet the needs of 11 occupants.
15. It is proposed that a drying area would be provided within the rear yard. However, given that the rear area would be used for car parking and the bin store it is unlikely that there would be sufficient space to provide a drying area for 11 people. Therefore, the drying of clothes could only realistically take place in the front garden, which would further diminish the availability of private amenity space.
16. I acknowledge that the proposed rooms would exceed the minimum standards set out in Shropshire HMO Amenity Standards. The Council do not dispute this. However, this is a neutral effect and does not outweigh the harm as a result of the lack of adequate private amenity space.

17. I find therefore that the lack of sufficient private amenity space, in terms of both quality and quantity, would result in inadequate living conditions for the future occupants of the proposal. As such, it would be contrary to Policy CS6 of the CS, which seeks to ensure that development contributes to the health and wellbeing of communities. It would also fail to accord with the guidance set out in the SPD, which seeks to ensure that development provides satisfactory external amenity space for occupants and does not provide minimal outside amenity space.

### **Other Matters**

18. In their reason for refusal, the Council refer to Policy CS11 of the CS. However, it has not been demonstrated how the proposal would conflict with this policy. Accordingly, I do not find that the proposal would be contrary to it.
19. The appellant has referred me to a planning permission granted by the Council for a HMO<sup>1</sup>. However, I have not been presented with the details of this scheme and therefore cannot be certain that there are any direct comparisons with the proposal before me. Accordingly, I can only attribute this very limited weight.
20. I have had regard to the concerns raised regarding the size and suitability of the kitchens, fire safety, drainage and electricity consumption. However, these matters are covered under separate legislation and therefore have had no bearing on my consideration of the planning merits of the proposal.

### **Conclusion**

21. For the reasons given above, the appeal is dismissed.

*Alexander Walker*

INSPECTOR

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<sup>1</sup> LPA Ref 13/02340/COU



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## Appeal Decision

Site visit made on 25 March 2019

**by Alexander Walker MPlan MRTPI**

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

**Decision date: 11<sup>th</sup> April 2019**

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**Appeal Ref: APP/L3245/W/18/3217943**

**Land North-West of Laurel Villa, Weston Common SY4 2AG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs Davies against the decision of Shropshire Council.
  - The application Ref 18/03725/OUT, dated 9 August 2018, was refused by notice dated 15 November 2018.
  - The development proposed is a single dwelling (all matters reserved).
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline, with all matters reserved for future consideration. Whilst the drawings suggest the siting and access for the dwelling, these are clearly identified as indicative. I have determined the appeal on this basis.

### Main Issue

3. The main issue is whether the site is a suitable location for housing, having regard to local and national planning policy, and the effect of the development on the character and appearance of the area.

### Reasons

4. Policy CS1 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 35% of these being within the rural area, provided through a sustainable "rural rebalance" approach. Development in rural areas will be predominantly in Community Hubs and Community Clusters.
5. Policy CS4 of the CS sets out how new housing will be delivered in the rural areas by focusing it in Community Hubs and Community Clusters, which are identified in Policy MD1 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015. Policy MD1 of the SAMDev identifies those settlements that fall within a Community Hub or Community Cluster. Policy S16.2(xvi) of the SAMDev identifies Weston Lullingfields, Weston Wharf and Weston Common as a Community Cluster with a housing guideline of 15-20 additional dwellings over the plan period to 2026. It states that these dwellings will be delivered through infilling, conversions and small

- groups of up to 5 dwellings may be acceptable on suitable sites within the villages.
6. As there is no defined boundary for the village of Weston Common set out in the development plan, my assessment of whether the site lies within the village has been based on the evidence before me and the observations I made on site.
  7. The appellant contends that the Council's Type and Affordability of Housing Supplementary Planning Document (SPD) 2012 provides guidance on whether a site is demonstrably part of or adjacent to a named settlement. However, this guidance relates explicitly to exception sites, which the proposal is not for. I note that the SPD recognises that all sites will be assessed on an individual basis.
  8. The appeal site comprises a triangular parcel of land that forms part of a larger field, the remainder of which lies to the north of the site. To the north of the larger field is a small residential development that at the time of my site visit was under construction. To the north east, east and west of this development are a number of other dwellings. To the south east of the appeal site, on the opposite side of the lane serving the site, is a dwelling and beyond that further to the south are a number of other dwellings and a primary school.
  9. I find therefore that the village consists of two main elements; the development to the north of the site and that to the south. Whilst the appeal site lies firmly in between these two elements, it is an open agricultural field that is read in the context of the surrounding open countryside that divides the village rather than forms part of the village. Therefore, I do not find that the site falls within the village for the purposes of the development plan. I acknowledge that Laurel Villa is within proximity of the site. However, this property is on the northern edge of the southern element of the village and on the opposite side of the lane. The proposal would encroach further into the open countryside.
  10. I acknowledge that the dwelling would likely share the same postcode as dwellings within the village and that local residents and the Parish Council accept that the site is within the village. However, these are not determinative factors and do not outweigh the findings I have made above.
  11. The Council confirm that they have already exceeded the housing guideline for the Community Cluster with a total of 21 completions and commitments. Policy MD3(2) of the SAMDev does not prohibit development that would result in the housing guideline being exceeded. The guideline is not a maximum figure, which is supported by the Inspector in the appeal at Land off Ellesmere Road<sup>1</sup>. Nevertheless, as I have found that the appeal site is outside the village, and therefore in the open countryside, Policy MD3(2) does not apply.
  12. I find therefore that the proposal would not represent infilling, a conversion or a small group of up to 5 dwellings on a suitable site within the village. Therefore, the proposal fails to comply with Policy S16.2(xvi).
  13. Policy CS5 of the CS allows new development in the open countryside only where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. It also provides a list of

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<sup>1</sup> Appeal Ref APP/L3245/W/18/3206619



particular development that it relates to including dwellings for essential countryside workers and conversion of rural buildings. There is no evidence before me to suggest that the proposal falls within any of the development listed in Policy CS5. However, the list is not exhaustive.

14. Policy CS5 is complemented by Policy MD7a of the SAMDev, which goes on to further state that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. Therefore, it seems to me that although Policy CS5 of the CS does not explicitly restrict new market housing in the open countryside, Policy MD7a of the SAMDev does. As the proposal is for an open market dwelling, the proposal would fail to accord with Policies CS5 and MD7a.
15. For the purposes of the development plan, the appeal site is located outside the village of Weston Common, within the open countryside where housing development is strictly controlled. As such, the development would not represent a suitable location for housing, having regard to the Council's housing strategy, as embodied by Policies CS1, CS4 and CS5 of the CS and Policies MD1, MD3, MD7a and S16.2(xvi) of the SAMDev.
16. In their reason for refusal set out in the Decision Notice, the Council cite the SPD. However, there is no evidence presented to me indicating how the proposal would conflict with the SPD. Accordingly, based on the evidence before me, I find no conflict with the SPD.

#### *Character and Appearance*

17. The appeal site is an open agricultural field located within a prominent location within a fork in the road. Although there is built form to the north and south of the site, which I have found to form the village of Weston Common, the site is read within the context of the surrounding open countryside. Due to its openness and agricultural character, the site makes a positive contribution to the character and appearance of the rural setting.
18. Whilst the application is in outline, the introduction of a dwelling on the site would erode the openness of the site. Furthermore, it would result in the southern element of the settlement encroaching further into the open countryside, closer to the north element. This reduction in the gap between the two elements of the village would result in the overall settlement appearing more densely developed and therefore out of character with its current loose-knit layout.
19. I have had regard to the number of dwellings that have been recently constructed within the locality. However, there is no evidence before me that these dwellings were considered under the same policy context as the current proposal. Accordingly, I cannot be certain that there are direct policy comparisons between them that weighs in favour of the proposal. In any event, these dwellings were considered to be within the village, unlike the appeal site. Accordingly, I attribute these approved schemes limited weight.
20. I find therefore that the proposal would significantly harm the character and appearance of the area. As such, it is contrary to Policies CS6 and CS17 of the CS and Policy MD12 of the SAMDev, which, amongst other matters, seek to protect, conserve and enhance the natural, built and historic environment.

Furthermore, it would fail to accord with the design objectives of the Framework.

**Conclusion**

21. I acknowledge that the applicants have local connections and the dwelling would be a self-build. Furthermore, the construction of the development would provide benefit, albeit limited, to the local economy by creating jobs during its construction. However, I do not consider that, individually or cumulatively, the benefits of the proposal outweigh the harm to the Council's housing strategy and the character and appearance of the area.
22. For the reasons given above the appeal is dismissed.

*Alexander Walker*

INSPECTOR



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# Appeal Decision

Site visit made on 9 April 2019

**by Elaine Benson BA (Hons) DipTP MRTPI**

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

**Decision date: 15 April 2019**

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## **Appeal Ref: APP/L3245/D/19/3223806**

### **1 Brick Kiln Cottages, Racecourse Road, Oswestry SY10 7PJ**

- 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 Terry Edwards against the decision of Shropshire Council.
  - The application Ref 18/04414/FUL, dated 20 September 2018, was refused by notice dated 30 January 2019.
  - The development proposed is extensions and alteration to dwelling.
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## **Decision**

1. The appeal is dismissed.

## **Main Issues**

2. The main issues in this appeal are the effect of the proposed extensions on the appeal property, which is a non-designated heritage asset, and on its setting.

## **Reasons**

3. The appeal property (No 1) is a vacant dwelling in need of renovation within a very small hamlet of former farming cottages and outbuildings which the Council identifies as a non-designated heritage asset. The Council indicates that it can be seen on the 1900 OS map and has historic origins associated with brick workings in the area. The dwellings are modest in appearance and size, constructed of traditional building materials and are organic in their layout. The rear elevation of No 1 is also the side wall of the adjacent cottage, with the 2 buildings forming an L-shape. Some of the cottages have been altered externally but nonetheless retain a cohesive cottage character and appearance. The evidence and my observations on site lead me to conclude that the significance of the non-designated heritage asset includes the modest appearance and size of the cottages in the hamlet, their layout and the historic context.
4. The front and side elevations of No 1 have been heavily and un-sympathetically altered over time and as such it has lost much of its original character. No 1 is the first building one sees when entering the rural hamlet which is approached by a single-track lane. Its location gives its frontage particular prominence. The proposed development would result in a rather imposing set of 3 two-storey gables on the front elevation, including a contemporary glazed central element. Notwithstanding that No 1 has been altered over time, the appearance of the property within its context would be further harmed and its appearance would fail to take reference from or reinforce local character and distinctiveness.

5. The two-storey front and single storey side extensions would further add to the floor area of the appeal property which has already been significantly increased in size over the years. The greater floor area and overall volume of the dwelling would lead to a prominent and excessive form of development which would further harm the character of No 1 and of the surrounding area by reason of the bulk and scale of the extended dwelling. The disproportionate size of the extensions could not in my view be satisfactorily addressed by the suggested alternative design approaches. Moreover, the proposed development would represent an increasingly large and more expensive property in this rural hamlet at the expense of a smaller, lower cost dwelling of the type that the *Shropshire Type and Affordability of Housing SPD* (SPD) seeks to restrict.
6. I have noted support for the proposal from Oswestry Rural Parish Council but this is insufficient to outweigh the identified concerns. This decision does not preclude the future consideration of any alternative proposals.
7. The extent of the alterations would result in less than substantial harm to the significance of the non-designated heritage asset. I acknowledge that the proposed works would bring No 1 back into use and in principle would improve its overall internal condition. However, based on the evidence before me, I conclude that this harm to significance would not be outweighed by any public benefits.
8. For the foregoing reasons, I conclude that the proposal would be contrary to Local Development Framework Core Strategy Policies CS5, CS6 and CS17; the Environmental Networks, Site Allocation and Management of Development Plan Policies MD2 and MD13; the SPD and the design objectives of the Framework, including the need for sympathetic development which respects local character and historic context, with which the Council's policies are consistent.

*Elaine Benson*

INSPECTOR