



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

Date: Monday, 27 January 2020

Committee:
Northern Planning Committee

Date: Tuesday, 4 February 2020
Time: 2.00 pm
Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND

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

Claire Porter
Director of Legal and Democratic Services

Members of the Committee

Roy Aldcroft
Nicholas Bardsley
Gerald Dakin
Pauline Dee
Nat Green
Vince Hunt (Vice Chairman)
Mark Jones
Pamela Moseley
Keith Roberts
Paul Wynn (Chairman)
David Vasmer

Substitute Members of the Committee

Joyce Barrow
Ted Clarke
Julian Dean
Steve Davenport
Roger Evans
Rob Gittins
Roger Hughes
Chris Mellings
Paul Milner
Peggy Mullock
Alexander Phillips

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 257717

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes

To confirm the Minutes of the meeting of the North Planning Committee held on 10th December 2019, attached, marked 2. (Minutes 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 Friday, 31st January 2020 at 2.00 p.m.

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 Former Copthorne Barracks, Copthorne Road, Shrewsbury, Shropshire, SY3 8LZ (19/04893/REM) (Pages 1 - 10)

Approval of reserved matters (appearance, layout, scale and landscaping) pursuant to outline planning permission 16/04228/OUT for the erection of 150 no. dwellings; to include a change of house types on plots 65, 72, 74-77, 82, 86, 106, 107, 109, 114-116, 119, 130, 149, 150, 160, 161, 164 and 168 on the part of the site approved under 19/01288/REM (previously approved as an amendment to 18/03637/REM)

6 1 Chronicle House, 6 Castle Foregate, Shrewsbury, SY1 2DJ (19/04587/FUL) (Pages 11 - 16)

Additional A5 use (hot food takeaway) to ground floor

7 Battlefield Services, Starbucks, Robert Jones Way, Battlefield, Shrewsbury, SY4 3EQ (19/04987/ADV) (Pages 17 - 24)

Erect and display 1no internally illuminated 8m Totem Pole Sign (to replace 6mtr totem pole sign on site already) (amended description)

8 Land Near Moss Cottage, Brown Heath, Ellesmere, Shropshire (19/03679/FUL) (Pages 25 - 38)

Erection of an agricultural storage and livestock building with hardstanding

9 Carolines, 1A English Walls, Oswestry, Shropshire, SY11 2PA (19/05193/FUL) (Pages 39 - 50)

Installation of new shop front and internal alterations

10 Appeals and Appeal Decisions (Pages 51 - 102)

11 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 3rd March 2020, in the Shrewsbury Room, Shirehall, Shrewsbury.

This page is intentionally left blank



<u>Committee and Date</u>
Northern Planning Committee
4 th February 2020

<u>Item</u>
5
Public

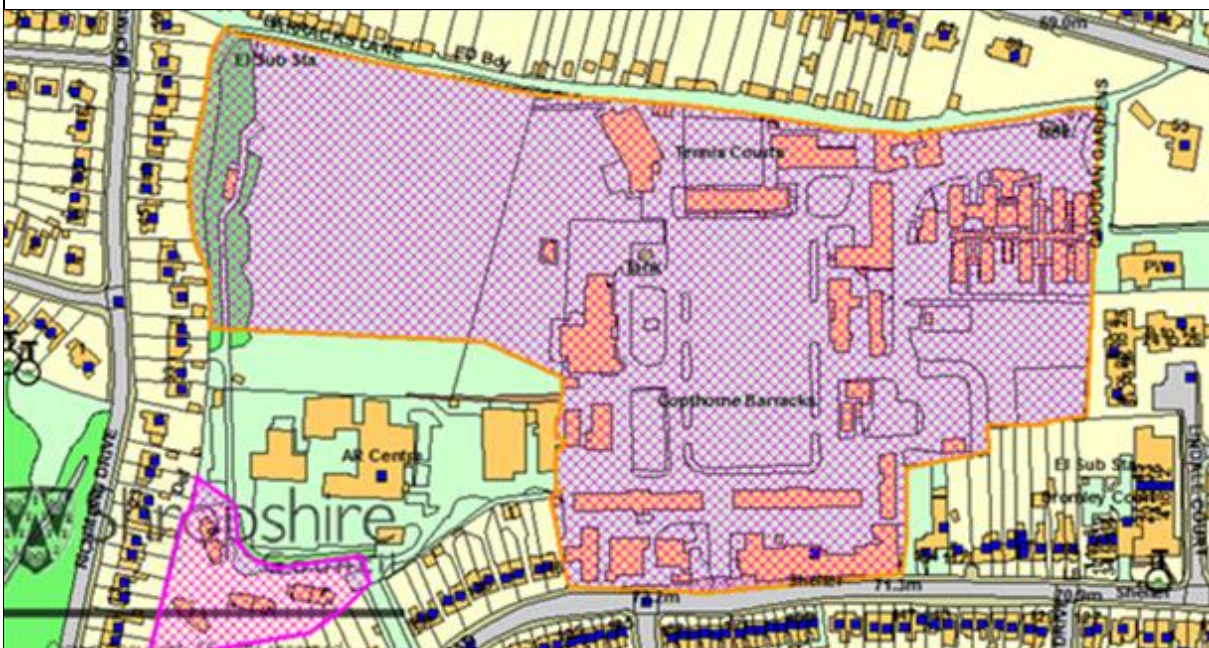
Development Management Report

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

Summary of Application

<u>Application Number:</u> 19/04893/REM	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Approval of reserved matters (appearance, layout, scale and landscaping) pursuant to outline planning permission 16/04228/OUT for the erection of 150 no. dwellings; to include a change of house types on plots 65, 72, 74-77, 82, 86, 106, 107, 109, 114-116, 119, 130, 149, 150, 160, 161, 164 and 168 on the part of the site approved under 19/01288/REM (previously approved as an amendment to 18/03637/REM)		
<u>Site Address:</u> Former Copthorne Barracks Copthorne Road Shrewsbury Shropshire SY3 8LZ		
<u>Applicant:</u> Bellway Homes Limited		
<u>Case Officer:</u> Jane Raymond	<u>email:</u> planning.northern@shropshire.gov.uk	

Grid Ref: 347955 - 312842



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2019 For reference purposes only. No further copies may be made.

Recommendation: Approve subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application relates to the approval of reserved matters (appearance, layout, scale and landscaping) pursuant to outline planning permission 16/04228/OUT for the erection of 150 dwellings to include a change of house types to those previously approved on 22 of the plots.

1.2 The whole site already has detailed approval for 216 dwellings under 18/03637/REM. This application only relates to the northern part of the site where an earlier revised application for Reserved Matters (19/01288/REM) allowed for a change in some of the house types and minor alterations to the layout to include 8 additional dwellings (150 on this northern part of the site and 224 in total across the whole site).

1.3 This proposal does not change the number of dwellings, the road layout or the open space provision but is seeking approval for a change to the house types on 22 plots (65, 72, 74 to 77, 82, 86, 106, 107, 109, 114 to 116, 119, 130, 149, 150, 160, 161, 164 and 168).

1.4 The 74 dwellings on the southern part of the site (plots 1 to 26 and 169 to 216) will remain as originally approved. The number of affordable homes increases to 45 instead of the 43 previously approved which is a slight over provision.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is part of the former Copthorne Barracks and relates to the northern part of the site occupied by plots 27 to 168 inclusive on the layout previously approved under 18/03637/REM and 19/01288/REM.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 When the outline application was considered at Committee in August 2017 members resolved that planning permission be granted as per the Officer's recommendation and subject to any Reserved Matters Application being considered by the Central Planning Committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 There are no statutory consultees for this application as it only relates to a change in house types and associated minor changes to landscaping.

4.1.2 **WSP on behalf of SC Drainage:** The amended layout is unlikely to increase flood risk and is therefore acceptable.

4.2 - Public Comments

4.2.1 A site notice has been erected and the nearest neighbours notified but no response has been received to this publicity.

4.2.2 **Shrewsbury Town Council:** Raises no objections to this application.

5.0 THE MAIN ISSUES

5.1 The principle of development was approved at the outline stage and detailed Reserved Matters approval has already been granted for both this part of the site and the whole site. The first application for reserved matters also covered all the details required to be submitted by conditions 5- 17 attached to the outline consent inclusive, including landscaping, open space provision, tree protection, ecological protection and enhancement, access, parking and traffic implications and developer contributions.

5.2 The main issues relating to this proposal are the reserved matters for the change in house types on some of the plots on the northern part of the site:

- the layout, scale and appearance of the houses and
- the landscaping of the site and individual plots.

6.0 OFFICER APPRAISAL

6.1 Layout, scale and appearance

6.1.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity. MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment.

6.1.2 The north part of the site is adjacent to Barracks Lane which is on the edge of a Conservation area and the north east corner is adjacent to a listed building (Cadogan House). The proposal has the potential to impact on these designated heritage assets. Special regard needs to be given to the desirability of preserving the setting of listed buildings and preserving or enhancing the character and appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.1.3 The houses in the locality include a wide range of scale, design and period of buildings and display a wide palette of materials. The change in house types indicated on the revised layout does not change the variety of detached, semi-detached and terraced properties including a mix of 2, 3 and 4 bedroom homes, both open market and affordable.

- 6.1.4 The same variety of scale and design of dwellings is still proposed using a mix of materials (both render and brick and different coloured roof tiles). The materials remain the same as previously approved other than a revision to the bricks on plots 50 to 72, 147 to 151, 155 to 168, and 217 to 218 which have been amended from the Terca Harvest Buff Multi to the Lenton Golden Russett which are very similar in appearance and considered acceptable.
- 6.1.5 The road layout and the orientation of the houses is not changing, and as previously approved, the proposed development will back onto Barracks Lane with the majority of the existing boundary wall retained. This is considered acceptable from both a highway and visual impact perspective maintaining the enclosure of the site and its relationship with Barracks Lane.
- 6.1.6 It is considered that the scale of the buildings along the northern boundary of the site and the plot widths will be in keeping with the existing development that also backs on to Barracks Lane and that the development as amended will continue to preserve the character and appearance of the locality and adjacent conservation area.
- 6.1.7 The existing wall is still proposed to be retained and extended in an easterly direction continuing around the north east corner replacing the security fencing and the wide-open gap that gave views of MOD buildings of no architectural merit. It is considered that the closure of this gap with a wall will both improve the character and appearance of the locality on the edge of the conservation area and enhance the setting of Cadogan House.
- 6.1.8 It is considered that this revised proposal for a change in house types on 22 of the 150 plots would not harm the setting or the significance of Cadogan House. The enclosure of the development site in this north east corner (the same as previously approved) would not reduce the width of Barracks Lane or make it difficult for vehicles to manoeuvre and Highways previously had no objection to this.
- 6.2 **Landscaping**
- 6.2.1 The wider landscaping of the site remains the same as previously approved with existing trees retained and new tree planting in accordance with the previously approved drawings.
- 6.2.2 The landscaping the subject of this application relates to the individual plots including hard surfaced areas (patios and driveways), lawned areas and boundary treatments. These are not noticeably different to the private gardens and driveways previously approved and the proposed landscaping of the individual plots is considered acceptable.
- 6.2.3 A tree protection condition and landscaping implementation tree planting condition is recommended (the same as imposed on the earlier reserved matters approval) to ensure the protection of trees to be retained and to ensure the provision, establishment and maintenance of a reasonable standard of landscaping.
- 6.3 **Other Matters**

- 6.3.1 Access – The internal road layout and the vehicular and pedestrian access to the site is not included in the red line of this application and is not proposed to change from that previously approved.
- 6.3.4 Ecology – The proposed ecological enhancement approved as part of the earlier applications will also be provided as part of this revised application. The relevant conditions attached to the outline planning permission remain and require the approved details to be implemented prior to the first occupation of the relevant part of the development.
- 6.3.5 Drainage – The drainage conditions previously imposed on the earlier outline and reserved matters approval continue to apply.
- 6.3.6 It is recommended that all conditions imposed on the previous reserved matters approvals and that remain relevant are imposed on this revised application for reserved matters as recommended in appendix 1.

7.0 **CONCLUSION**

- 7.1 The principle of development has been established by the Outline permission. It is considered that the proposed minor amendments to the proposed scale, layout and appearance of the houses on 22 plots on this part of the site, and the associated landscaping is acceptable and would not adversely impact on the character and appearance of the locality or residential amenity. The character and appearance of the conservation area and the setting of the listed Cadogan House would also not be adversely affected. Sufficient open space and landscaped areas will continue to be provided in accordance with the outline permission and earlier reserved matters approval for the whole site, in addition to satisfactory ecological enhancement and appropriate measures for the protection of the significant trees to be retained. It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS17, MD2, MD12 and MD13 and the aims and provisions of the NPPF.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and SAMDev Policies: CS6, CS17, MD2, MD12 and MD13

RELEVANT PLANNING HISTORY:

16/03117/DEM Application for prior notification under Schedule 2 Part 11 of the Town & Country Planning (General Permitted Development) Order 2015 for the demolition of 39 No. buildings (including a range of military buildings (e.g. stores/offices/etc), Single Living

Accommodation (SLA) buildings and sports and welfare buildings) and associated structures (excluding boundary walls and fences and 'The Keep') (amended description) PNR 9th August 2016

16/04228/OUT Outline application (including access) for residential development and associated open space for up to 228 dwellings (C3 use) (including up to 45 apartments for retirement living and the conversion of the Armoury (the 'Keep') to provide up to 9 residential apartments) with landscaping, layout, scale and appearance reserved for later approval (amended description) GRANT 21st December 2017

18/03637/REM Approval of reserved matters (appearance, layout, scale and landscaping) pursuant to the Outline Permission 16/04228/OUT for the erection of 216no. dwellings (conditions 15 and 17 amended and 25 removed by 18/01826/AMP) (Amended description) GRANT 21st December 2018

19/01288/REM Approval of reserved matters (appearance, layout, scale and landscaping) pursuant to the Outline Permission 16/04228/OUT, for a mixed residential development of 150 dwellings (additional 8 dwellings) for part of the site (an amendment to reserved matters approval 18/03637/REM), (amended description) GRANT 14th June 2019

11. Additional Information

List of Background Papers: Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages

Cabinet Member (Portfolio Holder): Councillor Gwilym Butler

Local Member: Cllr Julian Dean

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.

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

2. Prior to above ground works commencing full details of a scheme of foul and surface water drainage to include Information on the proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding, and to ensure that the drainage system remains in good working order throughout its lifetime.

3. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the first building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until all tree protection measures specified in the submitted Tree Protection Plan and Arboricultural Method Statement have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority. A responsible person will be appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

4. All hard and soft landscape works shall be carried out in accordance with the approved plans and must be fully completed in accordance with a timetable to be submitted to and

approved in writing by the LPA. Prior to the planting of any trees additional details regarding planting pits and soil resources shall be submitted for approval. Tree soil volumes will need to be calculated for each species and it must be demonstrated that this will be available for each tree. 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 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.

5. The materials for the new build properties shall be as indicated on the approved materials plan.

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

This page is intentionally left blank

Agenda Item 6



Committee and Date
Northern Planning Committee
4th February 2020

Item
6
Public

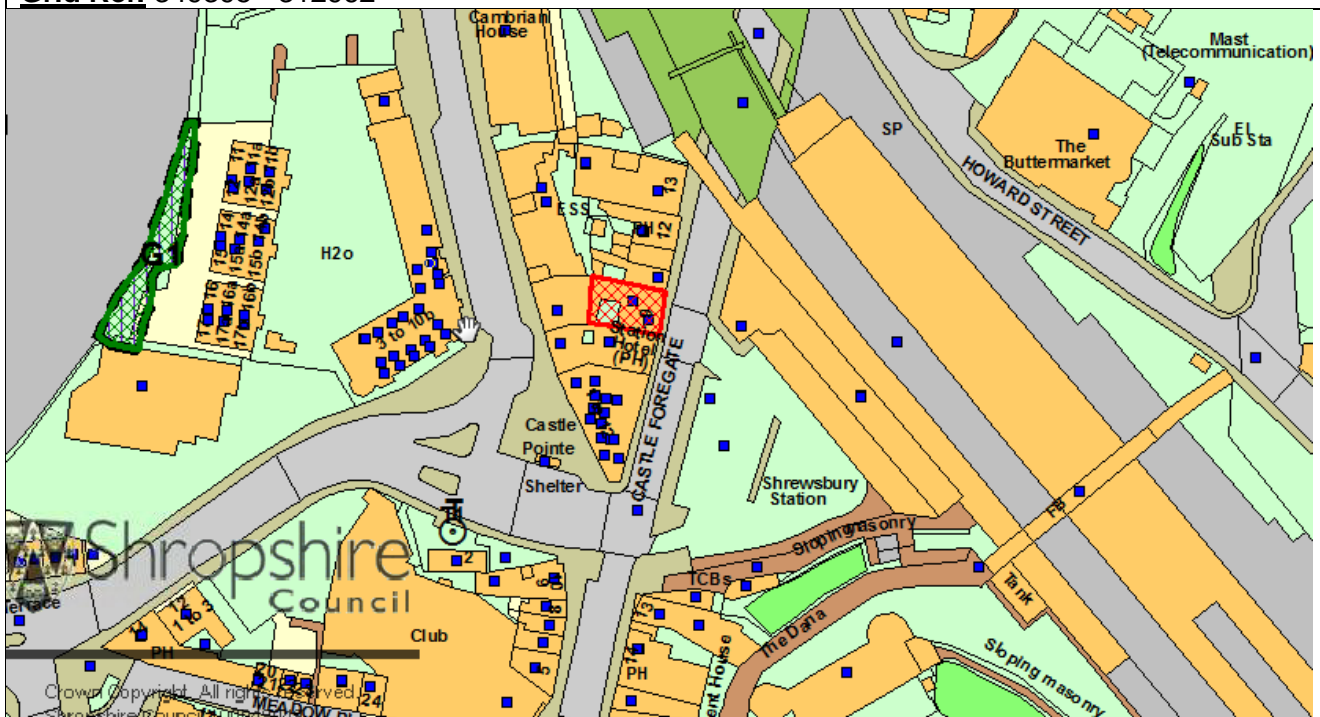
Development Management Report

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

Summary of Application

Application Number: 19/04587/FUL	Parish:	Shrewsbury Town Council
Proposal: Additional A5 use (hot food takeaway) to ground floor		
Site Address: 1 Chronicle House 6 Castle Foregate Shrewsbury SY1 2DJ		
Applicant: Mr Usman		
Case Officer: Jane Raymond	email: planning.northern@shropshire.gov.uk	

Grid Ref: 349395 - 312962



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2019 For reference purposes only. No further copies may be made.

Recommendation: Approve subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application is for change of use to a mixed use to allow for A5 use (hot food takeaway) on the ground floor in addition to the existing A3 use (restaurant) on the ground floor.

1.2 No external alterations are proposed.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is part of the ground floor of Chronicle House with access off Castle Foregate.

2.2 Chronicle House is an unlisted building situated with Shrewsbury Town Centre Conservation area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Town Council have submitted a view contrary to officers and the Principal Planning Officer in consultation with the Committee Chairman and Vice Chairman agrees that the application should be determined by committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 **SC Regulatory Services:** As the design and access statement states that there is no internal or external fabric change such as changes to extraction system or similar, regulatory services has no adverse comments. Please note that any planning permission to A5 does not automatically confer licensing rights, the license of the premises may require modification and the licensing section should be contacted for advice.

4.1.2 **SC Conservation:** The property is located within the conservation area and whilst unlisted, would be considered as a non-designated heritage asset in a prominent location. However, it is noted that there are no internal or external alterations proposed in respect of the use and therefore no objections are raised. Should it turn out that additional signage, extraction equipment etc. is required then please consult us again.

4.1.3 **SC Archaeology:** We have no comments to make on this application with respect to archaeological matters.

4.1.4 **WSP on behalf of SC Highways:** The proposal seeks additional A5 use to the existing restaurant at 1 Chronicle House, 6 Castle Foregate. Given the existing use

and town centre location, it is considered that a highway objection would be unsustainable.

- 4.1.5 **WSP on behalf of SC Drainage:** We have no comment from the drainage and flood risk perspective, regarding this proposal as there are no proposed changes to the footprint of the building.

4.2 - Public Comments

- 4.2.1 **Shrewsbury Town Council:** objects to this planning application on the following grounds:

Members feel that a hot food takeaway in this location will exacerbate existing traffic congestion problems on one of the major gateways in to the town centre and that car parking for the premises will have an adverse effect on traffic flows on a busy main road that has double yellow lines.

Members feel that the proposed opening times to 3.00am from Monday to Saturday will have an adverse impact on residential properties in the vicinity and would like to see changes made to ensure that the takeaway business hours are amended to close at 12 midnight from Monday to Thursday.

Members also feel that air quality in this location will be adversely affected from waiting cars impacted by potential traffic delays.

5.0 THE MAIN ISSUES

Principle of development
Parking/traffic implications
Impact on local and residential amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Core Strategy Policy CS15 established Shropshire's network of centres, and the principle that town centres are the preferred location for new retail, office, leisure, entertainment and cultural facilities, and other town centre uses. The relevant SAMDev policy is MD10a (Managing Town Centre Development) which refers to secondary and primary frontages within the town centre primary shopping area and an emphasis on maintaining A1 retail use.
- 6.1.2 The Castle Foregate frontage is outside of the designated primary and secondary street frontages of the Shrewsbury Town Centre area on the SAMDev proposals map.
- 6.1.3 The proposed additional A5 use is considered to be an appropriate and acceptable use in this edge of town centre location. Allowing the business to operate as both a restaurant and a takeaway would hopefully ensure that the business continues to thrive remain open and would help maintain an active and continuous frontage. The proposal is therefore considered acceptable in principle.

6.2 **Parking/traffic implications**

- 6.2.1 The town council have objected to the application as they consider that car parking outside would exacerbate existing traffic congestion problems and that air quality in this location will be adversely affected due to waiting cars.
- 6.2.2 There are double yellow lines outside so cars are not permitted to stop or park. The site is already used as a restaurant and is situated between two pubs and a club, all of which have no parking available and are both open late into the evening.
- 6.2.3 It is expected that almost all customers to the proposed takeaway will be on foot having arrived in Shrewsbury by car or travelled by train, bus or taxi. Some customers will be residents of the town centre. The majority of late night customers will be calling in at the proposed takeaway facility on their way home after a night out and would not be driving.
- 6.2.4 Highways have no objection to the proposal having regards to its location within the town where almost all restaurant, pubs and takeaways have no parking available outside. It is considered that the proposal would not generate additional traffic and would not result in cars pulling up and waiting outside. Therefore the proposal would not affect traffic flows or result in congestion in the locality or impact on air quality.

6.3 **Impact on local and residential amenity**

- 6.3.1 Policy CS6 and MD2 seek to ensure that development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that development 'creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users'.
- 6.3.2 The application form indicates that the hours of opening applied for is from 12:00 to 03:00 the following morning seven days a week. Late night takeaway restaurants have the potential to result in noise and disturbance outside the premises and in the streets surrounding the site due to the noise of customers leaving or congregating around the building.
- 6.3.3 The proposal is not for a drinking establishment but it is assumed that the late night opening has been applied for to serve customers that are leaving the pubs and clubs nearby and in the town centre. Regulatory Services have no objection to the proposal but have advised that the license for the premises may require modification and that this is applied for and considered separately.
- 6.3.4 As the site is in a busy part of town where pedestrian and vehicular activity continues into the early hours of the morning it is considered that any noise from customers entering or leaving the premises would not be discernible above the existing noise and activity in the locality. A condition restricting the opening hours to those proposed is therefore not considered necessary particularly as the opening hours will be controlled by the licence that the applicant will also be required to apply to modify.

7.0 CONCLUSION

7.1 It is considered that the proposed change of use to include A5 use is acceptable in principle and would have no adverse impact upon local or residential amenity. The proposal is considered to comply with the most relevant local plan policies CS6, CS15, MD2 and MD10a

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and SAMDev Policies: CS6, CS15, MD2 and MD10a

RELEVANT PLANNING HISTORY:

13/02300/FUL Change of use from offices into 6 residential apartments on first and second floors and into A1 and A3 use on ground floor GRANT 27th November 2014

11. Additional Information

List of Background Papers: Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages

Cabinet Member (Portfolio Holder): Councillor Gwilym Butler

Local Member: Cllr Nat Green

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.



Committee and Date
 Northern Planning Committee
 4th February 2020

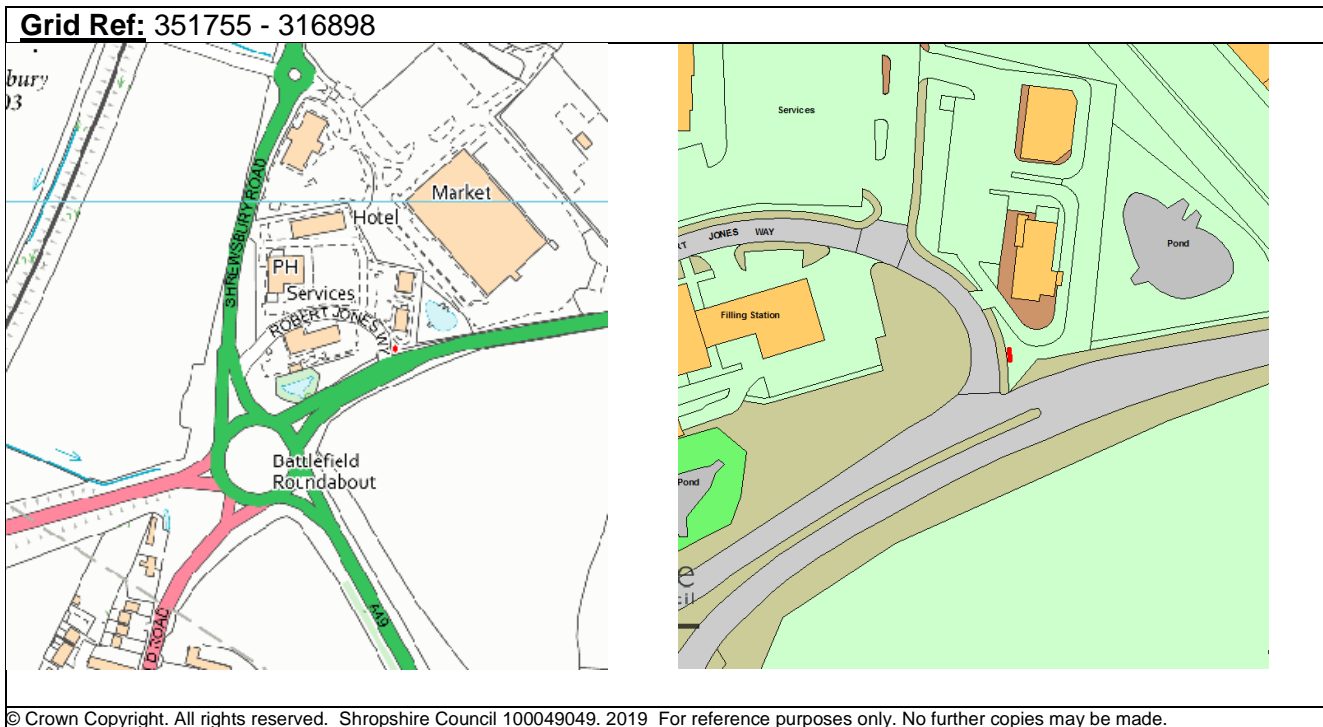
Item
7
 Public

Development Management Report

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

Summary of Application

<u>Application Number:</u> 19/04987/ADV	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Erect and display 1no internally illuminated 8m Totem Pole Sign (to replace 6mtr totem pole sign on site already) (amended description)		
<u>Site Address:</u> Battlefield Services, Starbucks Robert Jones Way Battlefield Shrewsbury SY4 3EQ		
<u>Applicant:</u> Euro Garages		
<u>Case Officer:</u> Kelvin Hall	<u>email:</u> planning.northern@shropshire.gov.uk	



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks advertisement consent for the erection and display 1no internally illuminated totem pole sign. The sign would be 8 metres high and advertise Starbucks 'drive thru' café. It would be internally illuminated with static light. It would replace a 6 metres high sign at the same position which is of similar design. The applicant seeks consent for retention of the sign until 12/11/2024.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is located at the Battlefield Services, on the northern side of the roundabout which links the A53, A49, A5112 and A5124 at the northern side of Shrewsbury. The services include a petrol filling station, hotel, fast food outlets, shop, pub/restaurant, and café. The proposed advertisement sign would be sited at the entrance to the services off the A53, within a landscaped area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The views of the Town Council are contrary to the Officer recommendation and the Principal Planning Officer in consultation with the Committee Chairman agrees that the Town Council has raised material planning issues and that the application should be determined by Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Shrewsbury Town Council** Objects. Whilst the Town Council appreciates the need for advertising signs, it felt the introduction of a new totem 50% larger than the existing was excessive. Members would prefer to see the roadside hedge trimmed to provide visibility for the existing sign rather than a much higher sign erected.

4.1.2 **SC Highways** No objection subject to a condition to require that no development takes place until a structural report has been submitted and approved.

In order for the proposed development to be appropriately assessed, from a highways and transport perspective, the following information is required to be submitted, by the applicant:

- Calculations submitted are not specifically for the site in Battlefield and are actually for a Starbucks in Kilmarnock. Site specific calculations will be required.
- Baseplate design is for 4 No. bolts, drawings supplied show 8 No.
- Foundation size in calculations (2100mm x 2100mm x 750mm) not as on submitted drawings (2500mm x 2500mm x 1000mm).
- Calculations assume 600mm soil over top of foundation – drawing indicates top of foundation level with ground.
- No assessment on existing ground conditions specific to the Battlefield site have been undertaken.
- No derivation of vertical dead load from sign provided.

- Calculations for foundations have insufficient reinforcement present (see pg Pad 6 – FAIL).
- No indication of final reinforcement solution for foundations has been provided.

4.2 **Public Comments**

- 4.2.1 The application has been advertised by site notice. No public representations have been received.

5.0 **THE MAIN ISSUES**

- 5.1 Under the advertisement regulations, the relevant issues for consideration are amenity and public safety, taking into account the provisions of the Development Plan and other relevant factors.

6.0 **OFFICER APPRAISAL**

6.1 **Impact upon the amenity of the area**

- 6.1.1 Core Strategy policy CS6 requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. There are a number of existing advertisement signs at the entrance to the Battlefield Services. These include an adjacent sign, approximately 4.5 metres high x 1.5 metres wide which advertises the Burger King, Travelodge and The Two Henrys pub/restaurant. On the opposite side of the entrance road is a relatively large sign which advertises the BP petrol filling station and incorporates advertisements for Spar, Subway and Costa Express.

- 6.1.2 The application as originally submitted proposed that the sign would be 9 metres high. In response to the concerns of the Town Council over the height of the proposed sign revised plans were submitted to reduce its height to 8 metres. This would make the sign two metres higher than the existing sign that it would replace. The sign would be set back from the public highway. The thick hedgerow alongside the A53 to the north-east would limit views of the sign from that direction. In relation to the Town Council's comments regarding the hedgerow, the applicant does not have control over the roadside hedgerow and would therefore not be able to manage its height in the long term to improve the visibility of the existing sign.

- 6.1.3 The application should be considered on its own merits. However for reference it is noted that advertisement consent for a 9 metres high Starbucks totem sign was granted at the A49/A5/A5112 roundabout (Dobies) at the south side of Shrewsbury in 2015 (ref. 15/00909/ADV). Further afield, consent was granted in 2016 for a 9 metres high Starbucks 'drive thru' totem sign at the A41/A525/B5398 roundabout at Whitchurch (ref. 15/05460/ADV). The proposed sign at Battlefield would be one metre shorter than these two, and it is considered that the Battlefield site can accommodate a sign of this particular design of 8 metres height without it be overly imposing or out of context in this area at the entrance to the services. As such Officers do not consider that consent should be withheld on the grounds of impact on amenity of the area.

6.2 **Impact on public safety**

- 6.2.1 The proposed sign would be set back from the public highway by approximately 10 metres. It is considered that this is a sufficient distance to avoid distraction to drivers. A condition can be imposed to require that a structural report is submitted for approval

to demonstrate an appropriate wind loading. Subject to this it is considered that the proposal would not have an adverse impact on public or highway safety.

7.0 **CONCLUSION**

7.1 The proposed signs would not have a detrimental impact on highway or public safety, and their scale, location and design would not be harmful to the amenity of the area. It is considered that the proposal meets the relevant criteria, taking account of the Development Plan and therefore that advertisement consent can be granted subject to the conditions set out in Appendix 1.

8. **Risk Assessment and Opportunities Appraisal**

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of

‘relevant considerations’ that need to be weighed in planning committee members’ minds under section 70(2) of the Town and Country Planning Act 1970.

9. Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS6 - Sustainable Design and Development Principles

RELEVANT PLANNING HISTORY:

SA/08/0538/RM Reserved Matters pursuant to Outline planning permission ref: 06/0970/O dated 25th August 2006 for the erection of two single storey buildings for use as roadside services to include appearance, landscaping, layout and scale PERCON 17th June 2008
SA/06/0970/O Outline application for the erection of a single storey building for use as a roadside services restaurant (amended description) GRANT 25th August 2006

Appeal

SA/APP/06/0970/O Outline application for the erection of a single storey building for use as a roadside services restaurant (amended description) ALLOW 6th February 2007

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)
--

Cabinet Member (Portfolio Holder) Councillor Gwilym Butler

Local Member

Cllr Dean Carroll

Appendices

APPENDIX 1 - Conditions

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

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. No advertisement shall be sited or displayed so as to—

(a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or

(c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6. 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.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

7. The sign hereby permitted shall not be erected until a structural report has been submitted to and approved in writing by the local planning authority. The submitted report shall include a structural assessment undertaken by an appropriately-qualified person(s) and provide details of the construction of the sign and its suitability in the area in relation to public safety.

Reason: To avoid adverse impact on public safety.

This page is intentionally left blank



Committee and Date
 Northern Planning Committee
 4th February 2020

Item
8
 Public

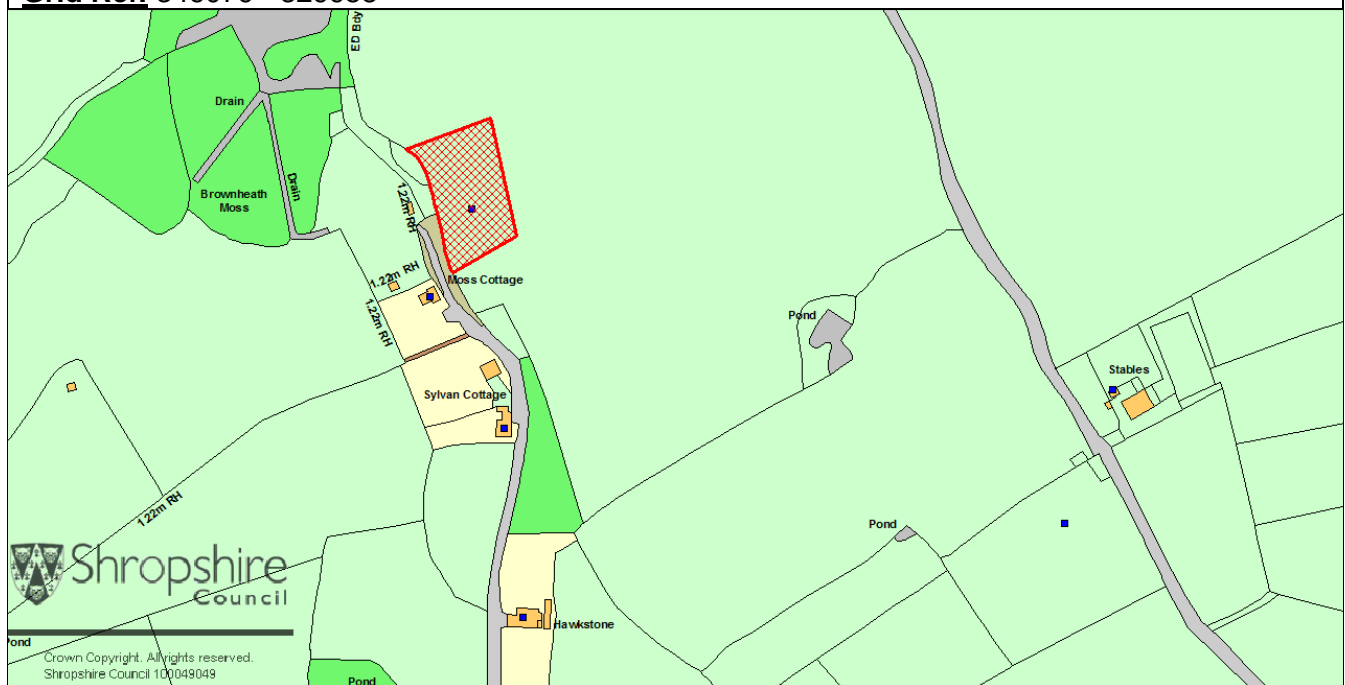
Development Management Report

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

Summary of Application

Application Number: 19/03679/FUL	Parish:	Loppington
Proposal: Erection of an agricultural storage and livestock building with hardstanding		
Site Address: Land Near Moss Cottage Brown Heath Ellesmere Shropshire		
Applicant: Mr & Mrs Evans		
Case Officer: Ollie Thomas	email: planning.northern@shropshire.gov.uk	

Grid Ref: 346079 - 329958



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2019 For reference purposes only. No further copies may be made.

Recommendation:- Approve 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 an agricultural storage and livestock building, with associated front hardstanding on existing arable land, to the north of Brown Heath.
- 1.2 The proposed agricultural building has been scaled down since original submission on request of the Case Officer and in recognition of the available amount of agricultural land and the applicants intended farming operations – small scale sheep rearing and grazing.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is a regular parcel of agricultural land that forms part of a larger parcel, located to the north of Brownheath, served by an unclassified section of no-through highway, which serves only a handful of residential properties. The application site is served by an existing field gate, set off the existing hedgerow boundary and on land currently laid to crop. Due to the undulating landscape, the application site is relatively well screened within its setting, being visible from the approaching highway, with limited visuals from the east.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have submitted comments contrary to the view of the Case Officer, which cannot be overcome by way of negotiation or planning conditions. Following which and in consultation with the Chair and Vice Chair of the planning committee and the local Ward Member, the application is to be decided by committee determination.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 SC Drainage (SuDS) – No objections subject to conditions.

4.1.2 SC Ecology – No response received to the recently submitted Ecology Report.

Following the submission of the Preliminary Ecology Report (Arbor Vitae, December 2019), the Councils Ecology team were re-consulted on the proposal. However, at the time of writing no further response has been received.

1st November 2019 – Additional information required.

This application definitely will require an HRA to be carried out. The HRA will have to be completed before a decision is made, and depending on the outcome of the HRA, NE will have to be consulted.

The potential effect pathways are via nutrient rich drainage seeping into the designated site (it's within the sites catchment) and via ammonia emissions from the livestock in the building. These will need to be investigated to see if they are likely to be significant.

4.1.3 Loppington Parish Council – Object – 31st October 2019

The Parish Council acknowledge residents' concerns that the size of the building is still not commensurate with the holding and the proposed agricultural use.

The Parish Council acknowledge the residents' concerns with regard to lack of drainage and run off creating flooding issues in the residential areas and having an adverse impact on the SSSI.

It is acknowledged that the road is very narrow and only one car width and has caused problems with damage to roadside verges and residential utilities.

The Parish Council object to this application as the highway infrastructure is not adequate to take any large vehicles with the potential to cause further damage to the verges and residential amenities and the proposal will exacerbate the flooding having an adverse impact on nearby properties and on the SSSI.

20th September 2019 – Object

The proposed building is set between a public right of way and the designated SSSI/Ramsar site of Brown Heath Moss in open countryside. The Parish Council object to this application for the following reasons:

- The building appears to be of excessive size for the site and close to and viewed from the adjacent public areas being unsympathetic to visual amenity in this location.
- The site is accessed via an unclassified single track road passing other properties. The application plan shows a significant area of hardstanding and significant widening of the access gate which suggests movement of large agricultural equipment accessing the site; there is no highway detail or proposals regarding the movement & management of large farm vehicles along this road.
- The application refers to a proposed waste storage area but there are no details regarding the type or amount of waste or how this will be managed.
- The responses in the application to questions 10 and 12 in respect of trees and biodiversity clearly indicate that there is a likelihood the development will adversely impact on these two aspects however, no ecological assessment of the impact on the adjacent SSSI or tree survey or any details of either are included in the application.
- The size of the building appears to be excessively large for the proposed agricultural use.

- The application refers to provision of new public rights of way but no details are included in the application.

4.1.4 Cllr Brian Williams (Local Ward Member for The Meres)

22nd October 2019 – Committee request

I have now had a further opportunity to consider the issues involved and believe that there are matters which could be considered as material planning reasons for Committee consideration of the application. I have therefore emailed the planning officer to note that I have rescinded my original agreement that this should be a decision delegated to Planning Officers. I feel that there would be a significant benefit to the members to the Committee to have the opportunity to view the site and see the location of the proposed building.

4th October – 2019 – Delegated determination

Having now given considered to the revised application, I am satisfied that it is of reasonable size and I am happy to support approval of the proposal. I can see no material planning reason for refusal. I am happy for Officers to determine the application without reference to Committee.

12th September 2019 – Committee request

I object to the application on grounds that the access is unsuitable for the agricultural business proposed, that there will be a potential pollution threat to the adjacent SSSI and that the building is totally out-of-scale with neighbouring residential properties. If Officers are minded to recommend approval of the application, I request that it be referred to Committee for a decision.

The applicants have made no indication of justification for a business of the substantial size which could be carried out in a construction of the proposed size.

4.2 - Public Comments

4.2.1 A total of 16 objection letters were received from 12 members of the public was received, with their material considerations being summarised as follows:

- The serving highway is single width and not suitable for access by large agricultural/livestock vehicles, raising concern over the highway safety of all users.
- The development will adversely impact on the local wildlife and protected species – there are a number of protected ecological sites nearby and no Ecology survey was submitted at validation stage.
- The highway serving the site is known to flood during heavy periods of rain, how will the building be drained in terms of surface and foul water.
- The application site is prone to flooding.
- The immediate highway section has no passing places.
- Concern over misuse of the site as long-term storage and stockpiling, in connection with the applicants logging enterprise.

- The size of the originally submitted building is disproportionate to the size of the land.
- The highway serving the site is collapsing, in part due to the weight and frequency of large vehicles.
- There is a public turning point at the field entrance which cannot accommodate large vehicles and machinery.
- Intended use of land and buildings would represent nuisances to residential amenity, through noise and odour.
- The proposed development would result in the lopping of trees and removal of hedgerow.
- Concerns over any future external lighting which would represent light pollution and disturb wildlife.
- The amended plans and reduced scale/size does not address concerns of disproportionateness to the holding size.
- The intended use of the land (sheep rearing) will require 24/7 care and security.
- The application site lies within the protected Green Belt.
- Development will result in inappropriate intrusion into the open countryside and be of detriment to the visual amenities and character of the area and surrounding landscape.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Visual impact and landscaping
Highways and access matters
Ecology and biodiversity matters.

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The application is for agricultural development, on agricultural land and in the countryside, whereby the building is of small scale and adequately justified for the purposes of agricultural operations/activities associated with the application site and wider parcel of land.

6.1.2 The applicant has recently purchased 6.5 acres of existing arable land, that forms part of a larger parcel of land but outside of the applicant's control – a new native species hedgerow and stock proof fence is to be erected dissecting the two ownerships. The applicant owns no further agricultural land or buildings, it is therefore understood that the land is to be used for smallholding purposes, which are nonetheless agricultural purposes, but on a much smaller scale – the size of the holding will naturally restrict the size of any livestock herd and any further intensification of the site.

6.1.3 The reduced proposal shows a typical portal-framed agricultural building, with secure storage for associated machinery, fodder store and the occasional housing of livestock during inclement weather or during the lambing periods. It is considered that the proposed building is of a scale and size proportionate to the size of the holding and justified for the intended operations and activities to occur on the land.

- 6.1.4** It is acknowledged that the application site lies isolated in that it does not form part of an existing agricultural development and is separated from the settlement core; however, Brown Heath is a very much dispersed linear settlement, where there is no strong settlement core. Whereby, the proposed development would neither look out of character to the local landscape and in the most part, will not be visible, other than from a handful of receptors only, to which this visual harm is considered low.
- 6.1.5** Furthermore, there is strong presumption in supporting rural enterprise and based on the above basis, the principle of development is both established and supported.
- 6.2 Siting, scale and design of structure**
- 6.2.1** The proposed building is typical in form and style for modern-day farming practices, of portal frame construction and externally clad in profile sheeting and whilst no colour has been stated, it will be conditioned that this must be of a dark green in order to soften its impact within its setting and against the wooded backdrop. The building is made up of four 5.5m bays, totalling 22m in length, with a 12m width and a height of 5m to eaves, with a shallow dual pitched roof design.
- 6.2.2** The building is to be sited within close proximity to an existing field gate, to the north, with this field gate being widened so as to accommodate agricultural machinery – to a width of 7.2m. Due to its close proximity to the access point, only a relatively small amount of hardstanding is required, with all of this remaining to the front of the building, avoiding the existing hedgerow and tree line. There is no external stockpiling being proposed, with the building providing all the storage needs of the applicant.
- 6.2.3** Internally, the building will remain largely open and served by two full-height, double width doors – to the east and north. On the submitted plans, the applicant has shown the intended use of each bay of the building: one bay is to be used for fodder and equipment storage, with a bay used for the storage of a tractor and trailer, with the remaining two bays used for the livestock storage; however, as the livestock are being housed infrequently, it is expected that these areas will also be used for storage of machinery and equipment.
- 6.3 Visual impact and landscaping**
- 6.3.1** With the application site holding an isolated location within the open countryside, the proposal will result in a degree of visual harm. However, as the surrounding landscape is inherently rural with sporadic agricultural buildings, this harm is considered minimal. Furthermore, the application site is down a no-through highway section and due to the topography of the immediate landscape the building will only be visible by a single residential dwelling and a public footpath (ROW 0207/17/1), which runs east-west approximately 45m south of the application site.
- 6.3.2** Due to the proposed building being out of direct sight and some 35m away from this single residential dwelling, it is not considered that the proposal will result in any adverse residential amenity impacts. It is acknowledged that the presence of livestock and machinery might entail additional noise and odour, but the land remains to be in agricultural use, which could be grazed by livestock at any point,

whereby the proposed building and its use is not considered to be intensive and is associated with small-holding farming activities only.

6.4 Highways and access matters

6.4.1 As mentioned, the site is accessed by an existing access which is served by an unclassified public highway, which also serves a handful of residential properties. The highway is single width and a typical section of rural highway, with high hedging and grass verges. There are no restrictions on the traffic or vehicles of this highway.

6.4.2 A number of objection comments have been received in regard to the inadequacy of the highway and the intensification of vehicle movements that the proposal will result in. However, it must be understood that regardless of the outcome of this application, the application site will remain to be accessed for agricultural purposes, owing to the existing access point. Furthermore, with the applicant intending to graze a small herd of sheep, with the proposal providing storage for machinery and equipment on-site, it is not anticipated that the proposal will result in an unacceptable intensification of this highway section. Moreover, it is likely that the majority of vehicle movements will be by the applicant in their private car.

6.4.3 On this basis and that proposals should only be refused on highway grounds if there would be an unacceptable impact on highway safety, the Case Officer can find no substantive grounds on which to object from a transport and highways perspective.

6.5 Ecology and biodiversity matters

6.5.1 The application site lies within the open countryside and upon existing ploughed arable land; however, it is also within close proximity (within 5km) of a number of protected ecological sites –

- **Brownheath Moss** – a Ramsar site and Site of Special Scientific Interest (SSSI).
- **Sweat Mere and Crose Mere** – a Ramsar site and SSSI.
- **Cole Mere** – a Ramsar site, a Local Nature Reserve (LNR) and SSSI
- **Ruewood Pastures** – a SSSI.
- **Wem Moss** – a National Nature Reserve (NNR), a Ramsar site and SSSI.
- **Fenns, Whixall, Bettisfield and Cadney Mosses** – a Ramsar site, SSSI, Special Area of Conservation (SAC) and NNR.
- **Clarepool Moss** – a Ramsar site and SSSI.

As a result of this proximity and owing to the development type and proposed livestock storage, the application is accompanied by a Preliminary Ecological Appraisal (Arbor Vitae, 11th December 2019).

6.5.2 The Appraisal provides an assessment of the available habitats both on and adjacent to the site in regard to protected species. Of those protected species surveyed, there are known records of bats within 1km of the site; nesting/breeding birds within the nearby hedgerows; and two ponds are thought to contain great crested newts, however their suitability is poor. In conclusion and in recognition of the existing arable lane, the proposed development is not considered to have a negative impact on any habitats of ecological significance or of any protected

species and where the proposal does have potential to impact upon protected species, this impact can be mitigated through various means.

- 6.5.3** The conclusions of this Appraisal are agreed with, despite any comments from the Councils Ecology team, as within their initial comments, they did not object to the proposal, instead provided that without this Appraisal, it was unable to determine the developments impact. Those mitigation measures recommended will be conditioned on any approval notice.

7.0 CONCLUSION

The proposal to erect an agricultural building, on existing agricultural land, proportionate to the size of the holding and justifiable in terms of agricultural operations and activities is considered acceptable. The building is of a scale and appearance that is typical for agricultural buildings and whilst relatively isolated will not result in any adverse visual impact, owing to the site surroundings and landscape. The site is served by an existing access, off an unclassified section of highway, whereby the proposal will not result in unacceptable intensification of use of this highway. And whilst the site is within close proximity to ecologically diverse assets, the proposed development will not harm these habitats and with the addition of mitigation measures will provide an overall negligible harm in terms of biodiversity. On this basis, the proposal is considered to comply 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:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

Settlement: S8 - Ellesmere

RELEVANT PLANNING HISTORY:

19/03679/FUL Erection of an agricultural storage and livestock building with hardstanding 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)
--

Cabinet Member (Portfolio Holder) Councillor Gwilym Butler

Local Member

Cllr Brian Williams

Appendices APPENDIX 1 - Conditions

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

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

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

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

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

3. The hereby approved building shall be externally clad in profile sheeting to both the walls and roof. The colour of this sheeting shall be dark green throughout and there shall be no variation in colour without the prior written consent of the Local Planning Authority.

Reason: To reduce the proposals visual impact within the landscape.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development shall take place until a scheme of the surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into first use (whichever is sooner).

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

5. No development (including any demolition, earthworks or vegetation clearance) shall commence until a scheme of landscaping, which shall include details of both hard and soft landscape works and earthworks, has been submitted to, and approved in writing by, the Local Planning Authority. The scheme as approved shall be carried out in the first planting season following the completion of each development phase. Any trees, shrubs or plants that die within a period of five years from the completion of each development phase, or are removed and/or become seriously damaged or diseased in that period, shall be replaced (and if necessary continue to be replaced) in the first available planting season with others of similar size and species, unless the Local Planning Authority gives prior written permission for any variation.

Reason: To ensure satisfactory landscape treatment of the site which will enhance the character and appearance of the site and surrounding landscape.

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

6. Notwithstanding the provisions of Town and County Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification) no floodlighting or any other external lighting shall be installed at the site without the express Planning Permission first being obtained from the Local Planning Authority.

Reason: To safeguard the amenities of the locality.

7. No storage of goods, materials, plant or machinery of any description shall take place outside the building hereby approved.

Reason: To ensure that the proposed development will not prejudice either the enjoyment by neighbouring occupiers of their properties or the general appearance of the locality.

8. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the continued wellbeing of the trees in the interests of the amenity and environmental quality of the locality.

9. The agricultural building hereby approved shall solely be used as defined as agriculture under section 336, Part XV of The Town and Country Planning Act 1990 and shall be used solely in connection with the land holding as identified on the approved Location Plan, drawing number: 1974 D 01 Rev A.

Reason: In order to restrict the use of the premises in the interest of the amenities of the area.

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. - The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

Should soakaways are not feasible, drainage calculations should limit the discharge rate from the site equivalent to 5.0 l/s runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 25% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

- If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, the applicant should submit for approval a drainage system to ensure that no surface water runoff from the new access run onto the highway.

-

This page is intentionally left blank



Committee and Date
 Northern Planning Committee
 4th February 2020

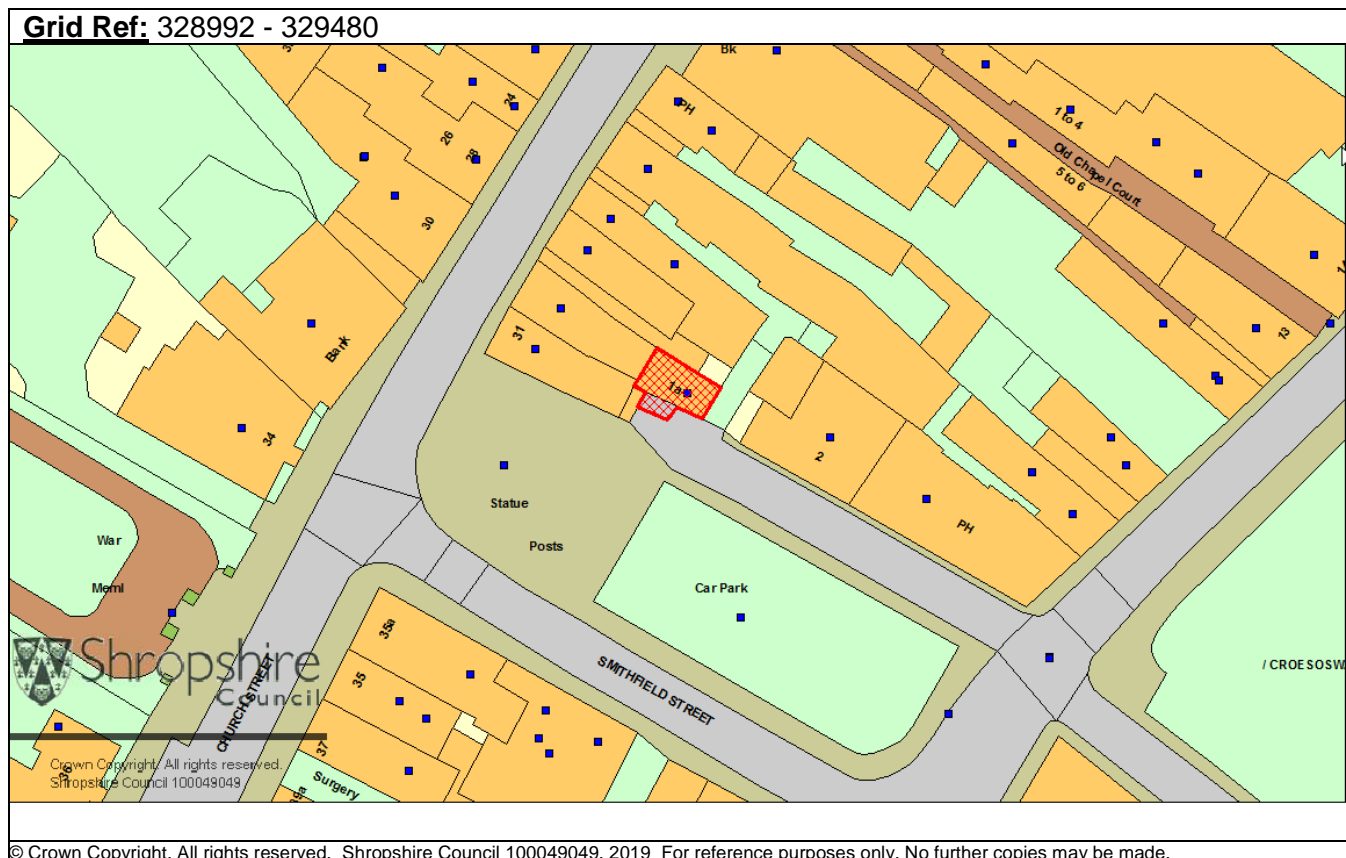
Item
9
 Public

Development Management Report

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

Summary of Application

Application Number: 19/05193/FUL	Parish: Oswestry Town
Proposal: Installation of new shop front and internal alterations	
Site Address: Carolines 1A English Walls Oswestry Shropshire SY11 2PA	
Applicant: Beleva Ltd	
Case Officer: Melanie Williams	email: planning.northern@shropshire.gov.uk



Recommendation:- Refusal for the following reason:

The development is considered inappropriate in relation to the location, in that it would have a significant adverse impact upon the existing integrity of the non-designated heritage asset, in respect of the proposed fenestration, parapet and render, which would completely alter the characteristics of the existing appearance of the building, as well as removing and obscuring fabric of significance such as the existing first floor sash windows and brickwork that currently makes a positive contribution to the existing character and appearance of the surrounding conservation area. The proposal is therefore contrary to Policy CS6, CS17, MD2 and MD13 of the local plan and paragraphs 192, 196 and 197 of the National Planning Policy Framework.

REPORT**1.0 THE PROPOSAL**

1.1 Installation of new shop front and internal alterations.

2.0 SITE LOCATION/DESCRIPTION

2.1 Located with the centre of Oswestry, Church Street, Festival Square and English Walls is a mixed use area boasting residential units, professional services and public houses. The ground floor at no. 1A English Walls was most recently used as a cake shop and patisserie (Caroline's) and has been vacant for some months. The locality boasts much local design character, and falls within the Oswestry Conservation Area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted 'Scheme of Delegation' given the objection from the Parish Council is contrary to the officer's recommendation. The application was considered at the Council's Planning Committee Agenda Setting Meeting and deemed appropriate to be heard by the Planning Committee.

4.0 Community Representations

- Consultee Comments

Shropshire Council Conservation:

Object – *The proposal affects a non-designated heritage asset that lies within the Oswestry Conservation Area, and adjacent 29-31 Church Street, which are grade II listed. The existing building dates from the mid-nineteenth century and is constructed in red brick with slate tiles. Whilst generally recessive and ancillary in scale and appearance it sits prominently within the streetscene and the wider conservation area. In considering the proposal due regard to the following local and national policies and guidance has been taken, when applicable: policies CS6 and CS17 of the Core Strategy and policies MD2 and MD13 of SAMDev, and with national policies and guidance, National Planning Policy Framework (NPPF) revised and published in February 2019 and the relevant Planning Practice Guidance. Sections 16, 66 and 72 of the Planning (Listed Building and*

Conservation Areas) Act 1990 (as amended).

It is considered that the proposal would have a significant adverse impact upon the existing integrity of the non-designated heritage asset, with the proposed fenestration, parapet and render, which would completely alter the characteristics of the existing appearance of the building, as well as removing and obscuring fabric of significance such as the existing first floor sash windows and brickwork that currently makes a positive contribution to the existing character and appearance of the conservation area. Oswestry is characterised by burgage plots, where the existing building very much fits to the rear of the plot of 29-31 Church Street as a key ancillary building, along with the typical smooth red brick and slate as a key characteristic which is mentioned in the Oswestry Conservation Area Appraisal.

It is considered that the proposal would have a very prominent impact upon the existing streetscene with the proportions of the proposed glazing, increase in height of the building through the parapet, where the existing building currently sits quietly amongst other adjacent buildings, therefore it is considered that the proposal would have significant harm upon the existing integrity of the non-designated heritage asset with the loss of existing fabric of significance, along with the wider setting of adjacent listed buildings, as well as having a detrimental impact upon the existing character and appearance of the conservation area. Therefore there is objection to this proposal, where it is considered that the proposal consists of 'less than substantial harm' as defined under paragraph 196 of the NPPF, as well as being contrary to paragraphs 192 and 197 of the NPPF, along with policies CS6 and CS17 of the Core Strategy and policies MD2 and MD13 of SAMDev.

Shropshire Council Drainage:

No comments

Shropshire Council Archeaology

No comments

- Public Comments

Oswestry Town Council:

Support – *The Council support this application and were pleased to see the quality of the design as proposed. It was felt that the development would add value to the location.*

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the adopted development plan ‘unless material considerations indicate otherwise’.
- 6.1.2 Paragraph 11 of the National Planning Policy Framework builds on this wording by encouraging planning to look favourably upon development, unless the harm that would arise from any approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
- 6.1.3 The National Planning Policy Framework (‘NPPF’) has been published by national government and represents guidance for local planning authorities. It is a material consideration to be given weight in the determination of planning applications.
- 6.1.4 Paragraph 8 of the NPPF makes it clear that the planning system should support development from an economic perspective (amongst other objectives), ‘to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure’.
- 6.1.5 This is expanded upon within Part 6 of the NPPF, ‘Building a strong, competitive economy’, stating 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’ (Paragraph 80). In addition, Local Planning Authorities are encouraged to ‘set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth’ (Paragraph 81).
- 6.1.6 Policy CS13 of the Shropshire Core Strategy indicates support for Shropshire’s Market Towns, developing their role as key service centres, providing employment and a range of facilities and services accessible to their rural hinterlands in accordance with Policy CS3 which indicates balanced housing and employment development of an appropriate scale and design that respects each town’s distinctive character and is supported by improvements in infrastructure.
- 6.1.7 Policy MD2 of the SAMDev on Sustainable Design indicates for development proposals to be considered acceptable development must respond positively to local design aspirations and contribute to and respect local distinctive or valued character.
- 6.1.8 Policy MD13: The Historic Environment in the SAMDev states that Shropshire’s heritage assets will be protected, conserved, sympathetically enhanced and restored by ensuring that where ever possible proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings and that ensuring that proposals which are likely to have an adverse effect on the significance of a non-designated heritage asset, including its setting will only be permitted if it can be clearly demonstrated that the public benefits of the

proposal outweigh the adverse effect.

6.1.9 Paragraph 195 of the NPPF states:

‘Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

a) the nature of the heritage asset prevents all reasonable uses of the site; and

b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and

c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and

d) the harm or loss is outweighed by the benefit of bringing the site back into use’.

6.1.10 Paragraph 3.132 in support of Policy MD13 states Heritage assets are buildings, monuments, sites, places, areas or landscapes that merit consideration as part of the planning process. The term includes all designated and non-designated assets and makes reference to ‘Conservation Areas’ as a designated asset.

6.1.11 The acceptability of the development therefore rests upon any identified material planning considerations.

6.2 Economic Consideration

6.2.1 The development of economic uses, including cafés and restaurants, is encouraged within town centres. Policy CS15: Town and Rural Centres reinforces this by encouraging development which positively contributes to the mix and diversity of uses within town centres, without undermining their primary retail function. Church Street and Festival Square exhibits a mixture of uses, including; retail, residential, business and drinking establishments.

6.2.2 The premises although currently vacant is historically classed as a mixed use. In 1975 planning permission was granted for change of use of the 1st floor as a café area ancillary to the retail use at ground floor (labelled as ‘Shop’ on the submitted plans with the 75 application). Previously to this the ground floor was used as a hairdressing salon (also A1 use) with residential at first floor. The most recent use of the premises prior to being vacant was as a cake shop and patisserie, with the first floor seemingly unused. In light of the time that has passed since this application it is not too straight forward to classify the existing use of the premises especially at first floor. The use operating from the site would seem to be A1 at ground floor with the first floor not being used. The proposal drawings submitted with the present application would appear to show the existing use for both ground floor and 1st floor as a café i.e. A3 use.

6.2.3 Notwithstanding this there are other material considerations (discussed at 6.2.7) that have not been considered in relation to a restaurant use that may require

regularisation.

- 6.2.4 Oswestry is recognised within SAMDev policy MD10a: Managing Town Centre Development as a settlement with a recognised Town Centre with Primary and Secondary Shopping Areas. The policy states that within the Secondary Frontage Areas additional main town centre uses will be acceptable where they would maintain an active and continuous frontage and would not result in an over concentration or undue dominance of non-retail uses.
- 6.2.5 The current site is set within a secondary shopping frontage within Oswestry Town Centre and represents a non-retail A1 use. It is also recognised that the building is vacant and its use as cafe would reintroduce an active frontage to this vacant unit. It is further recognised that the proposal would not result in an over concentration or undue dominance of non-retail uses at this location as there is a healthy amount of A1 outlets located in close proximity to the site. A3 and A4 premises are intermingled throughout the area however this does not appear to have been to the detriment of the main shopping area of Oswestry.
- 6.2.6 It is felt in light of this that this use would be welcomed in this location; it would bring a vacant unit back into use and re-introduce further vitality to this part of Oswestry Town Centre. The Local Authority are not looking to discourage the re-use of Town Centre premises to promote a healthy local economy and vibrant town centre. Therefore the principle of the use in this location would be acceptable.
- 6.2.7 *However as mentioned a further application for change of use may be required for A3 use at ground and first floor level. Especially as other matters would need to be taken into consideration such as proposed extraction details, potential opening hours and other issues which may have an effect on surrounding residential amenity and Environmental Health.*
- 6.2.8 However with regard the present application the main issue that would arise therefore is only in terms of its design within the location proposed.

6.3 Visual impact

- 6.2.1 SAMDev Policy MD2 'Sustainable Design' and Core Strategy Policy CS6 'Sustainable Design and Development Principles' requires development to be designed to a high quality by being sustainable in its design, inclusive and accessible in its environment and respecting and enhancing local distinctiveness. Furthermore, development is required to preserve and enhance the amenity value of the wider area to which it relates including the safeguarding of residential and local amenity.
- 6.2.2 Paragraph 127 of the revised NPPF reinforces that developments should be 'sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change'.

- 6.2.3 The proposal affects a non-designated heritage asset that lies within the Oswestry Conservation Area, and adjacent 29-31 Church Street, which are grade II listed. The surrounding built environment is characterised by mostly 2 storey buildings with 3 storey in the vicinity on Church street; again mostly clad in red brick with some in painted render; many with traditional shop fronts at ground floor and sash windows to the first floor.

<facing NW>



<facing SW>



<facing SE>



- 6.2.4 The existing building is constructed in red brick with slate tiles, it is considered a non-designated heritage asset.



It is felt the proposal would deface and remove features of significance that characterise the building and Oswestry Conservation Area. Thereby unacceptably altering features that currently make a positive contribution to the existing character and appearance of the conservation area.

- 6.2.5 The scheme would introduce a prominent and discordant design in terms of the excessive glazing proposed to the frontage as well as the large company lettering to be fixed above the first floor window. Additionally the proposed materials and finishing is described as dark render with dark rain water goods. Predominantly the buildings in the area are constructed using dark red brick with some buildings in white or cream render.

Apart from being described as dark the actual colour of the render has not been specified and depending on the shade would dramatically alter the appearance of the premises. If the scheme were to be successful this colour choice would be pivotal and therefore should be a pre-development condition on any approval

notice.

6.2.6 Therefore cumulatively (and indeed separately) and depending on the render colour choice these proposals would not be considered in keeping with the existing structure and would dominate and overpower views of the adjacent listed buildings and other heritage assets in the area plus the surrounding built vernacular.

6.2.7 The design of the scheme although results in a modern frontage to the proposed café building that would be attractive and acceptable in some locations. It is felt however that Oswestry Town Centre is not one of them, the proposal is alien and out of keeping with the surrounding vernacular.

7.0 CONCLUSION

7.1 The Local Planning Authority supports development that promotes Shropshire as an attractive location for enterprises to establish themselves, grow and prosper for the benefit of the vitality of the local area and wider Shropshire county. However, it is felt that this scheme would be inappropriate visually in this location as it is considered not in keeping with the surrounding premises, Oswestry Town Centre Conservation Area and local vernacular.

7.2 The proposal is therefore considered to be contrary to the requirements of Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy, Policy MD2 'Sustainable Design' of the Shropshire Site Allocations and Management of Development (SAMDev) Plan and Central Government advice contained in the National Planning Policy Framework. The recommendation is therefore one of refusal for the following reason:

The development is considered inappropriate in relation to the location in that it would have a significant adverse impact upon the existing integrity of the non-designated heritage asset, in respect of the proposed fenestration, parapet and render, which would completely alter the characteristics of the existing appearance of the building, as well as removing and obscuring fabric of significance such as the existing first floor sash windows and brickwork that currently makes a positive contribution to the existing character and appearance of the surrounding conservation area. The proposal is therefore contrary to Policy CS6, CS17, MD2 and MD13 of the local plan and paragraphs 192, 196 and 197 of the National Planning Policy Framework

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, 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. BackgroundRelevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

13/01593/ADV Erect and display 1no fascia sign GRANT 27th June 2013

19/05193/FUL Installation of new shop front and internal alterations 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)
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member Cllr Paul Milner
Appendices

-

This page is intentionally left blank



<u>Committee and Date</u>
Northern Planning Committee
4 th February 2020

<u>Item</u>
10
Public

Development Management Report

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

SCHEDULE OF APPEALS AS AT COMMITTEE 4th February 2020

Appeals Lodged

LPA reference	19/03887/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated
Appellant	Ms Kay Short
Proposal	Erection of two storey extension to include balcony to western elevation
Location	Violet House Whitehouse Lane Bomere Heath Shrewsbury
Date of appeal	28.10.2019
Appeal method	Householder
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals Determined

LPA reference	19/02262/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr R J Davies And Mr D Davies
Proposal	Erection of a one and a half storey dormer bungalow with off street parking
Location	Land South Of The Red Castle PH Ellesmere Road Harmer Hill
Date of appeal	18.09.2019
Appeal method	Written Representations
Date site visit	
Date of appeal decision	09.12.2019
Costs awarded	No
Appeal decision	DISMISSED

LPA reference	18/05578/ful
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Ashvale Contracting Ltd
Proposal	Erection of four semi detached dwellings with off street parking following demolition of the former public house
Location	The Red Castle PH Ellesmere Road Harmer Hill
Date of appeal	18.09.2019
Appeal method	Written Representations
Date site visit	
Date of appeal decision	09.12.2019
Costs awarded	No
Appeal decision	DISMISSED

LPA reference	19/00884/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs Kate Williams
Proposal	Removal and replacement of roof to include increase in building height to allow for loft conversion
Location	Hafod Las, Trefonen Road, Oswestry, SY11 2TW
Date of appeal	23.10.2019
Appeal method	Written Representations
Date site visit	
Date of appeal decision	04.12.2019
Costs awarded	
Appeal decision	DISMISSED

LPA reference	19/02287/OUT
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Peter Konieczny
Proposal	Outline application for the erection of one single storey dwelling with vehicular and pedestrian access
Location	Proposed Dwelling To The West Of Betley Lane Bayston Hill Shrewsbury Shropshire
Date of appeal	22.08.2019
Appeal method	Written Representations
Date site visit	05.11.2019
Date of appeal decision	16.12.2019
Costs awarded	
Appeal decision	DISMISSED

LPA reference	18/02855/CPL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr G.A Anderson
Proposal	Application for Lawful Development Certificate for the proposed temporary siting of residential caravan during building works
Location	Plas Issa, Trefonen, Oswestry
Date of appeal	09.07.2019
Appeal method	Written Reps
Date site visit	11.11.2019
Date of appeal decision	08.01.2020
Costs awarded	
Appeal decision	DISMISSED

LPA reference	17/05629/ENF
Appeal against	Enforcement
Committee or Del. Decision	
Appellant	Mr G Anderson
Proposal	Alleged breach of Planning Control in relation to change of use of land, siting of mobile home including ground works
Location	Plas Issa, Trefonen, Oswestry
Date of appeal	09.07.2019
Appeal method	Written Reps
Date site visit	11.11.2019
Date of appeal decision	08.01.2020
Costs awarded	
Appeal decision	DISMISSED

LPA reference	19/02907/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Andrew Williams
Proposal	Erection of 1 No dwelling with on-site parking and alterations to existing vehicular access
Location	2 Coniston Road Shrewsbury
Date of appeal	12.09.2019
Appeal method	Written Representations
Date site visit	25.11.2019
Date of appeal decision	13.01.2020
Costs awarded	
Appeal decision	DISMISSED

LPA reference	19/00669/PMBPA
Appeal against	Appeal Against Refused Prior Approval of Permitted Development Rights
Committee or Del. Decision	Delegated
Appellant	Mr Robert Jackson
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Agricultural Building East Of Meadow View Foxes Lane Broughall Whitchurch Shropshire
Date of appeal	18.10.2019
Appeal method	Written Representations
Date site visit	17.12.2019
Date of appeal decision	17.01.2020
Costs awarded	
Appeal decision	DISMISSED

LPA reference	19/02572/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Committee Decision
Appellant	Furrows Holdings
Proposal	Erection of 2no semi-detached dwellings
Location	Prospect House Belle Vue Road Shrewsbury
Date of appeal	09.10.2019
Appeal method	Written Representations
Date site visit	06.01.2020

Date of appeal decision	15.01.2020
Costs awarded	
Appeal decision	ALLOWED

LPA reference	19/00075/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr James Corbett
Proposal	Application under Section 73A of the Town and Country Planning Act 1990 for the erection of agricultural building and formation of access track
Location	Shevlock Farm, Elbridge Ruyton XI Towns, Shrewsbury, SY4 1JL
Date of appeal	01.10.2019
Appeal method	Written Representations
Date site visit	
Date of appeal decision	27.01.2020
Costs awarded	
Appeal decision	ALLOWED

This page is intentionally left blank



Appeal Decisions

Site visit made on 19 November 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2019

Appeal A: APP/L3245/W/19/3234449

The Red Castle, A528 from Shrewsbury and Atcham district boundary to Higher Road, Ellesmere Road, Harmer Hill SY4 3EB

- 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 David Davies (Ashvale Contracting Ltd) against the decision of Shropshire Council.
 - The application Ref 18/05578/FUL, dated 29 November 2018, was refused by notice dated 17 April 2019.
 - The development proposed is described as: 'demolition of the existing building and outhouse and the erection of 2 No semi detached two storey dwellings with off street parking, gardens and services'.
-

Appeal B: APP/L3245/W/19/3234464

The Red Castle, A528 from Shrewsbury and Atcham boundary to Higher Road, Ellesmere Road, Harmer Hill, Shrewsbury, Shropshire SY4 3EB

- 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 David Davies against the decision of Shropshire Council.
 - The application Ref 19/02262/FUL, dated 20 May 2019, was refused by notice dated 3 July 2019.
 - The development proposed is described as: 'erection of a one and a half storey dormer bungalow on grounds adjacent to the former Red Castle public house with off street parking'.
-

Decision

1. **Appeal A** and **Appeal B** are both dismissed.

Application for costs

2. An application for costs was made by Mr David Davies against Shropshire Council. The application relates only to Appeal A, and is the subject of a separate Decision.

Preliminary Matter

3. The description in the heading above for Appeal A is taken from the application form. Whilst it refers to 2 semi-detached dwellings, it is evident from the drawings and submissions before me that the proposal relates to a development of 4 semi-detached houses, and was considered and determined by the Council on that basis. Accordingly, I have also considered the appeal on that basis, as a scheme for 4 semi-detached houses.

4. In relation to the references in the Council's reasons for refusal to the building being a 'heritage asset', the appellant has referred to various criteria in the Localism Act, and to the property not appearing on any list of buildings identified or designated under those criteria. Those criteria and lists referred to relate to Assets of Community Value (ACVs).
5. However, when referring to the building as a heritage asset in its submissions, the Council does so with reference to the definition in the National Planning Policy Framework (the Framework), and to paragraph 197 of the Framework, which relates to non-designated heritage assets (NDHAs). It is therefore evident from the submissions before me that, in referring to the existing building as a heritage asset, the Council considers it to be a NDHA, under the terms of the Framework, rather than an ACV under the terms of the Localism Act, and that it determined the applications on that basis. I have considered the appeal accordingly, having regard to relevant development plan and national policy and guidance relating to NDHAs, consistent with the Council's consideration.

Main Issues

Appeal A

6. The main issues are the effects of the proposed development on:
 - the character and appearance of the appeal site and its surroundings, including with regard to the existing building as a NDHA;
 - the safety and convenience of highway users and those accessing the appeal site;
 - biodiversity, particularly with regard to bats.

Appeal B

7. The main issues are:
 - the effect of the proposed development on the character and appearance of the appeal site and its surroundings, including with regard to the significance and setting of the adjacent building as a NDHA;
 - whether sufficient parking would remain within the site, in the interests of the safety and convenience of highway users in the vicinity of the site;
 - the effect of the proposed development on the living conditions of the occupants of neighbouring properties with regard to outlook.

Reasons

Appeal A

Character and appearance

8. The appeal relates to the Red Castle, a public house building in the village of Harmer Hill, which is currently vacant, and which the Council considers to be a NDHA.
9. The Framework definition of heritage assets includes buildings identified as having a degree of significance meriting consideration in planning decisions

because of their heritage interest, and includes assets identified by the local planning authority, as well as designated heritage assets. The Red Castle is not included in the list of NDHAs in the Shropshire Historic Environment Record. However, whilst the Planning Practice Guidance (PPG) advises that it can be helpful if local planning authorities keep a local list of NDHAs, it also states that in some cases they may also identify NDHAs as part of the decision-making process on planning applications¹.

10. The existing building dates back to at least the late 19th century, and is recorded as having been a 'beerhouse' in 1896 and 1901. Together with a handful of cottages and the former village store, which has now been converted to a house, the existing building is part of one of a few small clusters of buildings which formed the original village of Harmer Hill as it grew up during the 19th century. As such, the existing building and those neighbouring properties are distinctive in character and appearance from much of the more modern housing which has grown up around it over the course of the 20th and 21st centuries.
11. Therefore, and as a result of its longstanding use as a public house, the existing building has significance arising from its heritage interest, as part of the village's historic fabric and community life, which merits consideration in this appeal. Consequently, and having regard to the definition and guidance in the Framework and the PPG, I consider it appropriate to identify the building as a NDHA.
12. Policy MD13 of the Shropshire Council Site Allocations and Management of Development Plan (the SAMDev Plan) states, amongst other things, that proposals which are likely to have an adverse effect on the significance of a non-designated heritage asset will only be permitted if it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse effect. The Framework states that the effect of an application on the significance of a NDHA should be taken into account in determining the application and that, in weighing applications that affect NDHAs, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
13. The Red Castle is not currently in use as a public house, and both parties have made reference to its fortunes having suffered in recent years, and to the recent expansion of the village's other public house, The Bridgewater Arms, which is very close to the site and has an attached hotel. I have also been referred to there having been limited interest from recent marketing of the building. However, whilst it may not currently be in use as a public house, given its age and former longstanding use as such, the building nonetheless retains some historic interest as a part of the early growth of the village and its community, which contributes to its significance.
14. The original parts of the existing building are built in local sandstone with a slate roof, and elements of its detailing, including its chimneys and relatively tall, recessed windows, are reflective of its age and contribute to its appearance, architectural interest and distinctiveness as part of this small cluster of historic buildings in what is generally a relatively modern village.

¹ Paragraph Reference ID: 18a-040-20190723

15. However, the building has been the subject of various alterations over the years. Those include extensions which have altered its roof form, the replacement of most of the windows with UPVC fixtures, and the coating of the whole building, including its original sandstone sections, in render. Furthermore, I observed that there appears to be little remaining of the building's original internal features. In combination, those changes have served to diminish the architectural character, fabric and interest of the building to some degree.
16. However, whilst its significance in those respects may have been somewhat diminished, the existing building's demolition would result in the total loss of that significance which remains, including the building's historic interest. The development would thus result in harm to the NDHA, which must be weighed in the balance when considering the proposed replacement buildings.
17. Notwithstanding the presence of more modern housing in the site's wider vicinity, the proposed houses would be viewed principally in the context of the historic cottages and converted former village store immediately adjacent to the site. Those neighbouring properties are relatively modest in their proportions and, in common with more modern dwellings in the wider vicinity, including those recently built on part of the public house's former car park, are set in from their side boundaries at first floor level. Those existing buildings in the vicinity thus maintain a sense of space and separation from adjacent sites and buildings, and from their road frontages.
18. The existing public house is taller than the adjacent terrace. However, its two storey section is located away from the boundary with that neighbouring building, with a much lower single storey section closest to that boundary, and its hipped roof slopes away from the adjacent terrace at present. It therefore maintains a sense of separation from those neighbouring terraced houses, and the effect of its greater scale and massing in relation to that adjacent building is limited to some degree.
19. In contrast, the proposed houses would be a full two storeys in height across almost the full width of the site. They would therefore extend closer to the adjacent terrace at two storey level than the existing building, and would have a tall, vertical side gable adjacent to those neighbouring houses, rather than the existing building's shallower hipped side roof, which is further away from them at present. There would also be very little separation between the two proposed buildings themselves. As a result, the proposed buildings would appear unduly cramped within the site, and would erode the sense of separation and space which exists between and around the existing buildings, and which characterises this part of the street scene at present.
20. Furthermore, whilst not dissimilar in appearance to other recently-built houses nearby, the proposed houses would not appear to incorporate any specific characteristics or detailing reflective of the original parts of the historic public house which they would replace, or those of the other historic buildings that they would be viewed immediately alongside. Therefore, I afford limited weight to the appearance of the proposed houses as a benefit that would outweigh the loss of the remaining architectural significance of the existing building, which retains some of its original characteristics despite having been much altered over the years.

21. Therefore, for the reasons given, the proposed development would appear as an unduly dominant, cramped and discordant feature which would not reflect the pattern of surrounding development or the character or appearance of its immediate surroundings. It would therefore not make a positive contribution to local character and distinctiveness, a matter which the Framework advises should be taken into account in determining applications for proposals affecting heritage assets.
22. The development would provide 4 dwellings, contributing to local housing supply. I have also had regard to the intention to incorporate sustainable construction measures as part of the development. However, notwithstanding references made to the houses being affordable, I have nothing before me by way of any undertaking or legal agreement which would secure them as affordable housing in the terms set out in the Framework, thus limiting the weight I afford to that proposal. In any event, the public benefits which would arise from the 4 dwellings proposed, and thus the weight I afford to those benefits, are very modest.
23. Harmer Hill has another public house and a village hall which, I am advised, is available for events and community activities. Therefore, having regard to the size of the village, and as the Council has not raised any objection in that respect, I conclude that the demolition of the public house would not have an adverse effect on the provision of community facilities within the village. However, the absence of harm in that respect is neutral, rather than a factor weighing in favour of the proposed development.
24. Drawing those threads together, notwithstanding the somewhat diminished significance of the existing building, for the reasons given it has not been demonstrated that the development would make a positive contribution to local character and distinctiveness. Therefore, having regard to Policy MD13 and paragraph 197 of the Framework, I conclude that neither the appearance of the proposed replacement scheme, nor those other very modest public benefits arising from the development, would outweigh the harm which would result from the loss of the NDHA, and of its remaining significance, in this instance.
25. I have had regard to information provided by the appellant with regard to the works and investment that would be required to convert the existing building. However, that information does not alter my conclusion that, for the reasons given, the particular redevelopment scheme proposed in this case would not result in overriding benefits to justify the demolition of the existing building.
26. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the appeal site and its surroundings, including with regard to the existing building as a NDHA. The proposal would therefore conflict with the terms of SAMDev Plan Policy MD13 as set out above, and with SAMDev Policy MD2, and Policies CS6 and CS17 of the Shropshire Core Strategy (the Core Strategy) which, amongst other things, require developments to be designed to a high quality, contribute to and respect locally distinctiveness or valued character, and protect the significance of heritage assets. The development would also conflict with the aims of the Framework as set out above.

Safety and convenience of highway users

27. The proposed houses would have 8 parking spaces along the site frontage, the layout of which would require those using them to reverse onto or off the A528 at the front of the site. However, there are a similar number of spaces in a similar position to the front of the existing public house building, which could potentially be frequently used, and lead to vehicles reversing onto or off the road to the front of the site, if the existing building were to be brought back into use.
28. The section of the A528 which runs along the site frontage and beyond the adjacent cottages towards Lower Road, to the left (north) when leaving the site, is relatively straight and level, allowing views along the road for some distance from and towards the site in that direction.
29. Visibility to the right hand side (south) when leaving the site is more limited. However, I have not been presented with any substantive evidence to indicate that the existing spaces in a similar position at the front of the existing building, or those which I observed in front of some of the neighbouring cottages to the north, present a significant hazard to road safety at present, with reference to any accident record or similar information. Nor have I any substantive evidence before me by way of a speed survey to indicate that vehicle speeds past the site are regularly in excess of the 30mph speed limit, as has been suggested. In that context, on the basis of the evidence before me, I have no reason to conclude that the proposed parking arrangements would have adverse implications for highway safety compared with the existing situation.
30. The existing pedestrian footpath along the site frontage is relatively narrow. However, that footpath is of limited length, and does not continue beyond the site frontage for any notable distance in either direction. Therefore, and as there is an existing footpath on the opposite side of the A528 which runs alongside the full length of the road through the built-up part of Harmer Hill, the footpath along the site frontage is not likely to be so well-used as to justify a requirement for it to be widened as part of the proposed development. It would be sufficient in its current form to allow occupants and visitors to the proposed houses to do so safely.
31. Therefore, on the basis of the evidence before me, and having regard to the existing parking layout on the site frontage, I conclude that the proposed development would not have adverse implications for the safety and convenience of highway users or those accessing the appeal site. The proposal would therefore not conflict with Policy CS6 of the Core Strategy which, amongst other things, requires development to be safe and accessible to all.

Biodiversity

32. The appellant has provided a Bat Survey – Preliminary Roost Assessment (the PRA), the methodology and conclusions of which have not been challenged by any party with reference to any substantive evidence. Therefore, I am content to rely on its results.
33. The PRA identifies a number of historical records of bat roosts within 2km of the site, and that tree lines and woodlands in the site area are likely to be used for foraging and commuting by local bat populations. The PRA identified several

areas of the existing building's roof which would provide access and suitable roosting features for bats, and also found bat droppings in two parts of its roofspace. On that basis, the PRA concludes that the building is a confirmed bat roost.

34. The proposed development would include the demolition of the existing building, and thus the removal of any roost(s) present. There is therefore a significant likelihood that bats, a protected species, would be adversely affected by the proposal.
35. Having concluded that the existing building is a bat roost, the PRA recommends the carrying out of bat emergence/re-entry surveys during the active bat season (May to September) to characterise the roost(s) present including with regard to species, roost type and access points, and thus inform any necessary or appropriate mitigation. However, no such surveys are before me, nor have any mitigation proposals been put forward as part of the scheme.
36. Circular 06/2005² states that it is essential to identify the presence of protected species and the extent to which they may be affected by a proposed development before planning permission is granted. I note the appellant's stated commitment to carrying out further surveys. However, in this case there is a reasonable likelihood of a protected species being present and affected by the development and, in the absence of those surveys, I am unable to assess the extent of any such effects, and whether they could be satisfactorily mitigated. There is therefore an unacceptable risk that the proposal could significantly harm bats. Circular 06/2005 states that ecological surveys should only be left to coverage under planning conditions in exceptional circumstances, which I do not find to exist here.
37. For the reasons given, I cannot be certain that the development could be carried out without significant harm to biodiversity, particularly with regard to bats. The proposal would therefore conflict with Policy CS17 of the Core Strategy and Policy MD12 of the SAMDev Plan which, amongst other things, seek to avoid harm to Shropshire's natural assets and require that development does not adversely affect those environmental assets or their ecological values and functions. The proposal would also conflict with the Framework, which states that, if significant harm to biodiversity cannot be avoided or adequately mitigated, planning permission should be refused.

Appeal B

Character and appearance

38. The proposed bungalow would be built on part of what is currently the public house's car park. It would be similar in appearance to two dormer bungalows which have been built to the rear (west) of the site, which also have quite tall, steep roofs, and to other houses of recent construction immediately to the south. It would be set back from the road and separated from the existing public house building by an access drive. The bungalow would therefore appear separate and distinct from the existing public house and the terrace of houses beyond, and would be viewed principally in the context, and against the backdrop, of those more recently-built houses immediately adjacent to and

² Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System.

behind it. In that context, the proposed building would not be unduly dominant or discordant as a result of its height or its appearance.

39. Although associated with the existing public house building, the site is hard-surfaced and used as its car park. As such, the site makes very little contribution to the historic or architectural significance of that existing building as a NDHA, or to its setting. The proposed bungalow would be located quite close to the site boundaries. However, it would maintain a sufficient degree of separation from the existing public house building, the site frontage, and the front elevations of the new houses to the south, that it would not appear unduly cramped, particularly given its single storey appearance.
40. Therefore, in the context of surrounding houses which have recently been built immediately adjacent to the site, including those on another part of the pub's former car park to the south, the development of a further dwelling on this area would not have an adverse effect on the character or appearance of the appeal site or its surroundings, including with regard to the significance or setting of the adjacent building as a NDHA. The proposed development would therefore not conflict with the requirements of Policies CS6 and CS17 of the Core Strategy or Policies MD2 and MD13 of the SAMDev Plan as set out above. Nor would it conflict with the Framework which requires development to be sympathetic to local character, including the surrounding built environment.

Safety and convenience of highway users

41. As I have found the development proposed in Appeal A to be unacceptable, the existing public house building would remain. The development of a bungalow on the appeal site would result in the loss of part of the car park of that existing building.
42. The existing building is not currently in use, and I have had regard to evidence provided by the appellant with regard to the recent financial circumstances of the public house prior to its closure. However, for so long as the building remains, the possibility of it being brought back into use in some form could not be ruled out altogether. In such circumstances, I cannot be certain that the relatively limited number of spaces which would remain in front of the building would be sufficient to maintain an adequate level of parking provision for a building of its relatively large size.
43. The development of the appeal site as proposed could therefore lead to a shortfall in parking within the site in the event that the building's use was to recommence in some form. Consequently, in the absence of any substantive evidence to indicate that there would be capacity on nearby streets, including the main A528 route, to safely accommodate any overspill on-street parking which may arise as a result, I consider that the proposal could have significant implications for the safety and convenience of other road users in the vicinity of the site.
44. Consequently, in the current circumstances, and on the basis of the evidence before me, I cannot be certain that sufficient parking would remain within the site, in the interests of the safety and convenience of highway users in the vicinity of the site. The proposal would therefore conflict with Policy CS6 of the Core Strategy which, amongst other things, requires development to include appropriate car parking.

Living conditions

45. The bungalow would be located quite close to the front elevation of one of the two recently-built houses on the adjacent site. However, the tallest part of its side gable would be in front of the entrance door to that neighbouring property, and its roof would slope downwards such that the section of wall immediately in front of the neighbour's front kitchen window would be much lower. The bungalow would therefore not appear unduly dominant, oppressive or overbearing when viewed from that neighbouring kitchen window, which would also maintain some wider outlook across the bungalow's front garden.
46. The main ground floor living areas of the neighbouring house are located to the rear, and their outlook over the property's rear garden would not be affected by the proposed development. Due to its single storey design, the bungalow would not have an adverse effect on the outlook from the upper floor windows of that neighbouring property, which would maintain a satisfactory wider outlook over its roof. I am therefore satisfied that the development would not have an adverse effect on the living conditions of that neighbouring property overall with regard to outlook.
47. The bungalow would be set back from, and not directly in front of, the neighbouring semi-detached house closest to the A528. Therefore, and as a result of the low eaves to its front elevation, the bungalow would not appear as an unduly dominant feature or adversely affect the outlook from that neighbouring property, which would also maintain a wider outlook across the bungalow's front garden.
48. Due to the position and orientation of other surrounding properties in relation to the proposed bungalow, it would not have adverse implications for the outlook from any other nearby dwellings.
49. Therefore, for the reasons given, I conclude that the proposed development would not have an adverse effect on the living conditions of the occupants of neighbouring properties with regard to outlook. The proposal would therefore not conflict with Policy CS6 of the Core Strategy which, amongst other things, requires development to safeguard residential amenity.

Planning Balance and Conclusion

Appeal A

50. I have found that the development would not have adverse implications for the safety or convenience of highway users. However, I conclude that the development would have an adverse effect on the character and appearance of the site and its surroundings, including the NDHA, and that the modest benefits of the scheme would not outweigh the harm arising in that regard. Furthermore, I cannot be certain that the development could be carried out without harm to bats. I therefore conclude that the proposed development would conflict with the development plan taken as a whole, and would not amount to sustainable development in the terms of the Framework.
51. Therefore, for the reasons given, and having regard to all matters raised, the appeal is dismissed.

Appeal B

52. The development would provide a new dwelling which would contribute to local housing supply and would be designed to incorporate measures aimed at optimising thermal insulation. However, the benefits arising from the single dwelling proposed would be very modest, and I afford them limited weight.
53. I have found that the development would not have adverse implications for character and appearance, for the NDHA, or for the living conditions of neighbouring occupants. However, the absence of harm in those regards, and the very modest benefits arising from the proposed development, do not outweigh my concerns regarding the potentially significant highway safety implications which may arise in the event that insufficient parking provision remained within the wider site. I therefore conclude that the proposed development would conflict with the development plan taken as a whole, and would not amount to sustainable development in the terms of the Framework.
54. Therefore, for the reasons given, and having regard to all other matters raised, the appeal is dismissed.

Jillian Rann
INSPECTOR



Costs Decision

Site visit made on 19 November 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2019

Costs application in relation to Appeal Ref: APP/L3245/W/19/3234449 The Red Castle, A528 from Shrewsbury and Atcham district boundary to Higher Road, Ellesmere Road, Harmer Hill SY4 3EB

- 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 David Davies (Ashvale Contracting Ltd) for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for demolition of the existing building and outhouse and the erection of 2 No semi-detached two storey dwellings with off street parking, gardens and services.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party which has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG advises that a local planning authority may be at risk of an award of costs for preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material consideration, or for refusing permission on a planning ground capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the proposed development to go ahead.
4. The appellant states that, had the Council classed the site as a heritage asset 'in a legally-binding way' the application would have succeeded. In that regard, the appellant's submissions refer to criteria and requirements set out in the Localism Act 2011¹, which relate to the designation of land or buildings as Assets of Community Value (ACVs). However, it is evident from the Council's submissions that, in referring to the existing building as a heritage asset, it identified it as a non-designated heritage asset (NDHA) under the terms of the National Planning Policy Framework (the Framework), not as an ACV under the terms of the Localism Act.
5. In referring to the building as a heritage asset and considering the implications in that regard, the Council's submissions refer solely and consistently to development plan policies and the Framework which are relevant to heritage

¹ Including those in sections 87, 88, 89 and 90.

assets, including some specifically relevant to NDHAs. The Council makes no suggestion that the building is, or should be, an ACV. It has clearly set out its reasons for identifying the building to be an NDHA with reference to the Framework and relevant development plan policies and, having done so, has articulated its concerns and substantiated its reasons for refusing permission in that regard. I am therefore satisfied that the Council has considered the application in the correct policy context. Accordingly, and as it will be seen from my decision that I agree with the Council's conclusions in that regard, I conclude that it has not behaved unreasonably in its identification of the building as a NDHA, or in refusing the application on that basis.

6. It is evident from the Council's submissions that, in concluding that the development would cause harm to highway safety, it had regard to the existing parking bays on the site frontage. However, it was not unreasonable for the Council to reconsider the suitability of that arrangement, or the adequacy of the adjacent footway width, in the light of the new residential use and the particular layout proposed. Therefore, whilst I have reached a different conclusion on that particular matter, the Council did not behave unreasonably in reaching the conclusions it did, as a matter of planning judgement and having regard to its development plan policy CS6 which, amongst other things, requires development to be safe and accessible to all.
7. The appellant's bat survey concludes that the existing building is a confirmed bat roost. In the light of that survey, and in the absence of further surveys to characterise the roost(s) and inform any necessary mitigation, it was not unreasonable for the Council to conclude that the proposed demolition of that building could have an adverse effect on bats, or that it could not be certain as to the extent to which that protected species could be affected by the proposal. Its approach in that regard, and in concluding that those further surveys could not be left to coverage under planning conditions, is entirely consistent with its development plan policies and relevant national guidance relating to protected species, and was not unreasonable.
8. The Council's decision was made some time after the expiry of the relevant target determination date and, from the limited evidence before me, it appears that the Council could perhaps have communicated more effectively with the appellant with regard to that delay. However, there is nothing before me to suggest that the Council's decision would have been any different had it been made earlier. For the reasons given, I consider that the Council has adequately substantiated its reasons for refusal, and it will be seen from my decision that I also consider the proposal to be unacceptable overall. Therefore, the Council's actions have not delayed a development which should clearly have been permitted, or led to an appeal which could otherwise have been avoided, and thus do not amount to unreasonable behaviour in the terms of the PPG.
9. The appellant has referred to costs associated with the lapsing of an option agreement on the site. However, such matters are not within the scope of the costs regime as set out in the PPG, which relates only to costs incurred in the appeal process. In any event, for the reasons given, I have found no unreasonable behaviour on the part of the Council in its refusal of the application. It therefore follows that the appellant has not been put to unnecessary or wasted expense in the appeal process.

Conclusion

10. For the reasons given I conclude that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated, and that an award for costs is therefore not justified.

Jillian Rann
INSPECTOR

This page is intentionally left blank



Appeal Decision

Site visit made on 11 November 2019

by **Alexander Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th December 2019

Appeal Ref: APP/L3245/D/19/3236180

Hafod Las, Trefonen Road, Oswestry SY11 2TW

- 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 Mrs Kate Williams against the decision of Shropshire Council.
 - The application Ref 19/00884/FUL, dated 22 February 2019, was refused by notice dated 12 July 2019.
 - The development proposed is a loft conversion forming two additional bedrooms and bathroom, with roof removed and re-covered and eaves raised by three block courses.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

3. This stretch of Trefonen Road comprises residential properties that line its north western side. These properties are two-storey in height and whilst there are some common architectural features, including bay windows, there is a variety of designs with many properties appearing to have been extended. The elevated position of the dwellings above the adjacent road results in them appearing prominent in the streetscene.
4. The proposal would include two dormer extensions to the roof; one to the front and a wider one to the rear. The width of the extensions and their windows would be significantly greater than the existing windows on the lower floors. As a result, the extensions would appear disproportionate and give the property a top-heavy and unbalanced appearance. The depth of the extensions, extending almost from eaves to ridgeline, particularly on the front elevation, would exacerbate this disproportionality.
5. Consequently, the proposed extensions would appear as incongruous and dominant features within the streetscene when viewed from Trefonen Road to the front and from Bramhall Lane to the rear. Whilst properties along the road have been extended, based in the evidence before me and the observations I made on site, there is no apparent roof extensions of any sort, which would further exacerbate the incongruity and dominance of the extensions within the streetscene.

6. I acknowledge the appellant's contention that the raising of the roof height of the property would not be harmful to the streetscene. Based on the evidence before me and the observations made during my site visit, I find no reason to conclude that it would. However, this does not mitigate the harm that would arise as a result of the dormer extensions.
7. I find therefore that the proposal would significantly harm the character and appearance of the area, contrary to Policy CS6 of the Shropshire Council Core Strategy 2011 and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan, which, amongst other things, seek to ensure that development respects and enhances local distinctiveness and reflects locally characteristic architectural design and details.
8. In their reason for refusal, the Council also refer to the Shropshire Council Type and Affordability of Housing Supplementary Planning Document 2012. However, there is no evidence before me to indicate why the proposal would fail to accord with the guidance contained within this document. Accordingly, I find no conflict with it.

Other Matters

9. The proposal would provide additional and more efficient living space for the appellant. However, I do not consider that this outweighs the harm I have identified.
10. I acknowledge the concerns raised regarding the effect of the proposal on the living conditions of the occupants of 3 Broomhall Lane. However, I am satisfied that there is sufficient distance between the properties to ensure that there would not be any unacceptable harm with regard to loss of privacy and light.

Conclusion

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

Alexander Walker

INSPECTOR



Appeal Decision

Site visit made on 5 November 2019

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/L3245/W/19/3235789

77 Lyth Hill Road, Bayston Hill, Shrewsbury, Shropshire SY3 0HA

- 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 Peter Konieczny against the decision of Shropshire Council.
 - The application Ref 19/02287/OUT, dated 21 May 2019, was refused by notice dated 12 July 2019.
 - The development proposed is the erection of one single storey dwelling with vehicular and pedestrian access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline form with all matters reserved with the exception of access. Whilst the block plan shows the siting of the dwelling this is labelled as indicative only. I have determined the appeal on this basis.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on:
 - the character of the locality; and,
 - the living conditions of nearby residents and future occupiers.

Reasons

Character

4. The site lies within an established settlement area of predominantly residential development characterised by mixed housing types and ages. The site is currently part of the rear garden associated with a detached dwelling fronting Lyth Hill Road, with new access from Betley Lane for the proposed dwelling. The properties on this section of the road benefit from deep, narrow plots, the rear boundaries of which generally form a screen boundary along the undeveloped side of the northern arm of Betley Lane, a private road of about 9 properties.
5. The substantially regular widths of plots on this part of Lyth Hill Road show some variation in lengths, generally increasing northwards where they meet Betley Lane. The dividing boundaries between gardens are mostly well-established mixed hedging of varying heights. The majority of plots have maintained the integrity of the rear boundaries but the appeal site is an example of where a rear vehicular access point has been created. Other

- examples of rear vehicular access points, parking areas and ancillary buildings are present on the southern arm of Betley Lane where there are some commercial buildings and a newly built bungalow set behind properties fronting Lyth Hill Road.
6. The proposed development would introduce a scale of built form that is currently absent from the rear garden areas of this part of Lyth Hill Road. The buildings here are generally limited to small-scale ancillary garden sheds or greenhouses. Whilst the scale of development would appear subordinate to no 77 and the houses on the developed side of Betley Lane, it would contrast significantly with existing built development on this section of the lane.
 7. This effect would be emphasised by the presence of development across a significant width of the garden and the subdivision of the existing plot. Whilst the subdivided plot sizes would be comparable to others in the wider locality, they would be at odds with the regularity of the plots on this length of Lyth Hill Road where they back on to the northern arm of Betley Lane.
 8. It is suggested by the appellant that a detached building could be erected here under permitted development rights. However, I have seen nothing to suggest that if this were possible, the appellant would genuinely pursue this option if the appeal failed. As such, it is a matter of negligible weight in the determination of this appeal.
 9. Furthermore, the proposed provision of vehicular access across the full width of the Betley Lane boundary would create an open frontage in contrast to the otherwise well screened boundaries present along this side of Betley Lane. Again, I acknowledge that removal of existing screen fences or vegetation along the Betley Lane frontage could potentially arise without a requirement for planning permission; however, the current examples of where this has taken place are in the minority and therefore do not define the prevailing character of the locality.
 10. Taken together these aspects of the proposed development would be at odds with the existing layout and grain of development and therefore fail to reflect the prevailing character of development in this part of Lyth Hill Road or Betley Lane.
 11. In support of the proposed development, my attention has been drawn to a recent appeal decision¹ for two dwellings to the north of Betley Lane and a recently built single-storey dwelling on the southern arm of Betley Lane. I have taken these into account. However, in the absence of full details of those cases within the evidence, I am unable to ascertain the circumstances of those decisions. I am therefore unable to conclude that they provide justification for overcoming the harm I have identified here; a proposal which I have considered on its own planning merits.
 12. For the above reasons I consider that the development would conflict with policies MD2 and MD3 of the Shropshire Council Site Allocations and Management of Development Plan (2015) (MDP) and policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy (2011)(CS) which, amongst other things, seek to protect local character.

¹ APP/L3245/W/19/3224092

Living Conditions – nearby residents

13. Whilst the proposed development would create a new focus for domestic activity, given the distances to nearest residential dwellings and length of the adjacent garden areas, any effects in terms of noise, disturbance or lighting would be consistent with that of existing activity in this primarily residential area. For the same reason, noise or disturbance from the use of the parking area would not be so different from that arising from the existing arrangement or nearby residents' use of parking areas existing elsewhere on Betley Lane.
14. The distance between the proposed plot and neighbouring dwellings would also limit effects with regard to outlook. Although any dwelling would be partially visible from neighbouring dwellings and garden areas above the existing hedges, or alternative boundary treatments, the intervening distance is likely to be an alleviating factor. However, this is substantially a matter for further consideration at the detailed design stage of development proposals.
15. Although one effect of the proposed development would be to significantly reduce the garden area available to residents of no 77, it would retain a single area of enclosed private amenity space commensurate with the level of existing accommodation and other examples found close by. This would be sufficient to maintain a suitable standard of living conditions for current or future occupiers of that property with respect to private outdoor amenity space provision.
16. For those reasons I conclude that the effect of the proposed development on the living conditions of nearby residents would be acceptable in principle and therefore consistent with the aims of Policy CS6 of the CS as it relates to safeguarding the living conditions of local residents.

Living Conditions – future occupiers

17. The dimensions of the site are such that suitable standards of living space, outdoor amenity space and parking could be achieved within it. Interface distances to the front and rear of the proposed dwelling are demonstrated sufficient to indicate that a suitable standard of living conditions for future residents is achievable.
18. Further consideration as to the effects on living conditions as a consequence of the details arising from the layout, scale and appearance of the proposed development fall outside of the scope of this appeal. Whilst the issue of outlook for future occupiers is referred to in the Council's reason for refusal, this is a matter for consideration at the relevant reserved matters stage. It has not therefore been attributed weight in this determination.
19. For the above reasons, I conclude that the effect of the proposed development on the living conditions of future occupiers would be acceptable in principle and therefore consistent with the aims of Policy CS6 of the CS as it relates to providing suitable living conditions for future occupiers.

Other Matters

20. The Council's report and reason for refusal includes reference to a number of policies relating to the delivery and distribution of housing development across the administrative area. The main parties agree that the Council is able to demonstrate a five-year housing supply. However, in the absence of detailed evidence in respect of housing delivery rates by either party, I have been

unable to ascertain if the presumption in favour of sustainable development as described in paragraph 11d of National Planning Policy Framework (the Framework) has been engaged, or if the qualifying criteria listed in part 2 of Policy MD3 of the MDP are applicable by virtue of local oversupply.

21. However, the policies indicate that housing figures are approximate and are intended to be flexible. The proposed development would provide a single residential unit and contribute to local housing delivery, mix and density in a Community Hub settlement area, identified as appropriate for additional housing. It is also relevant that the housing figures include provision for windfall sites and infilling within the settlement.
22. The proposed development would therefore be consistent with the revised Framework which continues to support the Government's objective of boosting the supply of homes including the promotion of small sites. Furthermore, whilst not determinative, I note that the recent appeal (APP/L3245/W/19/3224092) referred to by the appellant raised no concerns in respect of housing supply.
23. Based on the evidence before me, the proposed development would contribute to the delivery of housing and is therefore consistent with Policies MD1 and MD3 of the MDP and CS1, CS3 and CS11 of the CS as they relate to housing delivery. However, the small benefit to housing supply and any associated economic benefits would not, to my mind, outweigh the significant harm arising from the effect of the proposed development on the character of the locality even if it were the case that paragraph 11d of the Framework was engaged.
24. The Council's decision notice also refers to policy MD12 of the MDP relating to the natural environment in its reason for refusal. The Officer's report indicates that this is based on concerns that tree planting to compensate for potential biodiversity losses is unlikely to be achievable within the site. The site does not appear to have any formal ecological designations or protection. The balance of biodiversity value within it is therefore a matter for detailed consideration at the relevant reserved matters stage when biodiversity losses and gains can be accurately identified. From my site inspection and based on the evidence before me, I consider there are no grounds for an in-principle objection to outline planning permission in that respect and therefore the proposed development complies with policy MD12 of the MDP.
25. The appellant has referred to the acceptability of the use of Betley Lane as a means of access to the proposed development. There is no dispute between the main parties in that regard. However, this and the matters of housing land supply and biodiversity, taken singularly or cumulatively, do not outweigh the harm that I have identified in relation to the effect on the local character and the conflict with the development plan in that regard.

Conclusion

26. Whilst I have found in favour of the appellant with regard to the effect of the proposed development on living conditions of existing & future residents, I do not consider this outweighs the identified harm in relation to its effect on the character of the locality. I therefore conclude the appeal should be dismissed.

R Hitchcock

INSPECTOR



Appeal Decisions

Site visit made on 11 November 2019

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2020

Appeal Ref A: APP/L3245/X/19/3221405

Plas Issa, (New Barn Junction to Junction Trefonen Hall) Trefonen, Oswestry SY10 9DS

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Gary Andrew Anderson against the decision of Shropshire Council.
 - The application, Ref 18/02855/CPL, dated 19 June 2018, was refused by notice dated 16 October 2018.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is described as the temporary siting of a caravan while internal building and engineering works are carried out on agricultural barns.
-

Appeal Refs B and C: APP/L3245/C/19/3221786/7

Land at Plas Issa, Trefonen, Oswestry SY10 9DS

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Gary Andrew Anderson (Appeal B) and Mrs Natalia Romanova (Appeal C) against an enforcement notice issued by Shropshire Council.
 - The enforcement notice was issued on 7 January 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from agriculture to a mixed agriculture, residential and domestic storage use, by way of siting and occupation of a static caravan, installation of septic tank, marked approximately on the plan attached to the notice by "X" and "Y" respectively, and the storage of domestic cars.
 - The requirements of the notice are:
 - Cease the occupation of the Land for residential and domestic storage purposes;
 - Remove entirely from the Land the static caravan (situated in the approximate position "X" on the plan attached to the notice) and gas cylinders;
 - Remove entirely from the Land the septic tank (situated in the approximate position "Y" on the plan attached to the notice) and all associated drainage pipes connected to the static caravan;
 - Remove from the Land domestic cars which are not stored in connection with the permitted agricultural use; and
 - Restore the Land to a condition had the alleged breach of planning control not taken place.
 - The period for compliance with the requirements is 10 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(c) and (f) of the Town and Country Planning Act 1990 as amended.
-

Decisions

Appeal A

1. The appeal is dismissed.

Appeals B and C

2. It is directed that the enforcement notice be corrected by the deletion of the allegation and the substitution with "Material change of use of the land from agriculture and B1 business use to a mixed use for agriculture, B1 business use, residential (by way of the siting and occupation of a static caravan and the installation of a septic tank) and the storage of cars". Subject to these corrections the appeals are dismissed and the enforcement notice is upheld.

Appeal A, Procedural Matter

3. The application was made under section 192(1)(a) of the Act for a proposed development but it is clear from the application form that the development had already taken place. The Council therefore considered the application under sections 191 and 192 of the Act. The appellant has submitted his appeal on the basis of a section 192 development that had already started. I shall proceed on the basis that the question being posed is whether the temporary siting of a caravan for residential purposes is lawful.

Main Issue

4. The main issue is whether the Council's refusal to issue a certificate of lawfulness was well founded.

Reasons

5. The appellant is the owner of a small holding amounting to 5.2 hectares, where he keeps goats. At one end there is a group of farm buildings and between these buildings and the road a caravan has been sited, which is being used for residential purposes. One farm building is detached but the others abut each other, though they are on different levels, due to the lie of the land.
6. The appellant submits that express planning permission is not required for his development as it is permitted development (PD) in accordance with Part 5, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). This is because he says he is carrying out "building and engineering" work, namely the replacement of the roofs of several agricultural buildings, which were lost in hurricanes in recent years; the laying of a concrete floor over dirt floors within some of the barns; and internal building works necessary to complete the change of use of an agricultural barn of 124sqm to R Class, B1 business use.
7. Part 5 of the GPDO sets out PD for caravan sites and recreational caravan campsites. Class A deals with the use of land as a caravan site and permits the use of land, other than a building, as a caravan site in particular circumstances. These circumstances are listed in paragraph A.2 by reference to paragraphs 2- 10 of Schedule 1 to the Caravan Sites and Control of Development Act 1960 (the 1960 Act). Schedule 1 sets out cases where a caravan site licence is not required.

8. The appellant relies on paragraph 9 of Schedule 1 to the 1960 Act. This states a site licence shall not be required for the use as a caravan site of land which forms part of, or adjoins, land on which building or engineering operations are being carried out, "being operations for the carrying out of which permission under Part III of the Town and Country Planning Act 1947 (the 1947 Act) has, if required, been granted". This is on the basis that use is for the accommodation of a person employed in connection with the said operations.
9. Paragraph 9 is subject to the provisions of paragraph 13 of Schedule 1 to the 1960 Act. This deals with the situation where on an application made by a local planning authority, the Minister may remove the permissions given by paragraphs 2-10. The Council make no reference to this but have proceeded on the basis that in this agricultural area, paragraphs 2-10 are still in place and, in the absence of any other information, I shall proceed on that basis.
10. The caravan is sited on the land where the building and engineering operations are said to be taking place. This second requirement of paragraph 9 is therefore met. However, the "building and engineering operations" requirement is not met. This is because the "operations" in paragraph 9 have to be operations amounting to development for which planning permission shall be required. Part III paragraph 12 of the 1947 Act states that "development" means the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change of use in the use of any buildings or other land.
11. It is considered that the "building and engineering operations" described by the appellant do not amount to development and in Section 7 of the application form he refers to them as "repairs and maintenance". I find that replacing a roof after storm damage is a repair and upgrading the floors of the barns from a dirt surface to a concrete surface would be maintenance. In addition, internal building works that would not affect the external appearance of the building would also not fall within the definition of development stated in the 1947 Act, (which is carried forward in the 1990 Act). This is on the basis that they would not result in a material change of use of a building. In this instance, the appellant has been given an LDC in 2018, reference 18/02588/CPL, to use one of his barns for a flexible commercial use under Class R of the GPDO. The appellant is choosing to use it for Class B1 business purposes and has constructed a room from plywood in the middle of the barn, which is laid out as an office.
12. It would appear that the appellant believes his operations amount to PD, notwithstanding his own reference to them being repairs and maintenance, as he submits the size of his holding means he enjoys particular PD rights under Part 6, Class A of the GPDO. On agriculture units of 5 hectares or more it is PD to carry out works for the erection, extension or alteration of a building or any excavation or engineering operations.
13. However, even if the appellant's operations did amount to development, he cannot exercise or rely on his PD rights under Part 6, Class A until he has complied with a significant number of conditions such as seeking the prior approval of the Council. On the basis of the information before me from the Council, it would appear that these conditions have not been discharged.
14. He also cannot rely on the PD rights set out in Part 4 of the GPDO, to which he makes reference when responding to the Council's comments. This is because

these rights may only be exercised in situations where planning permission has been granted for the operations. That is not the case here.

15. For all these reasons it is considered that the temporary siting of a caravan for residential purposes, in the circumstances described by the appellant, would not be lawful as the development would not comply with Part 5, Class A of the GPDO.

Appeals B and C, The Notice

16. A notice must enable every person who receives a copy to know exactly what, in the Council's view, constitutes the breach of planning control. In this case the allegation is, without planning permission, the change of use of the land to a mixed use. The mixture of uses listed are agriculture, residential (the siting and occupation of a caravan and the installation of a septic tank) and the storage of domestic cars.
17. The appellants state that the allegation omits reference to Class R, use for B1 business purposes in the small barn, which had been implemented by the time the notice was issued. They also state that the notice fails to specify the location of the domestic car storage.
18. In the first instance, the notice ought to describe the development as a material change of use, as a change of use is not development within the meaning of section 55 of the Act. It should also have referred to the B1 business use, as the Council are required to list all the uses taking place and in dealing with these sorts of breaches, it is usual for a Council officer to visit the site just before the notice is issued to make sure the notice states all the uses taking place on the land. However, both of these omissions do not invalidate the notice and can be corrected without causing injustice to the appellants.
19. Secondly, whilst the Council marked the approximate location of the caravan and septic tank on the plan accompanying the notice, a lack of a similar reference for the storage of cars does not invalidate the notice. It is sufficient that the notice specifies¹ the address of the site and is accompanied by a plan which sets out the precise boundaries of the land to which the notice relates.
20. I will therefore proceed on the basis that the allegation is the material change of use of the land from agriculture and B1 business use to a mixed use for agriculture, B1 business use, residential (by way of the siting and occupation of a static caravan and the installation of a septic tank) use and the storage of cars.

Ground (c)

21. This ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control. A breach of planning control comprises the carrying out of development without the required planning permission. In addition to the caravan discussed in Appeal A, the appellants have installed a septic tank, to which the caravan is connected, and they store a few cars in the barn used for Class R, B1 business purposes.
22. The appellants submit that the siting and occupation of the caravan for residential purposes is temporary and is PD as it complies with Part 5, Class A

¹ Town and Country Planning (Enforcement notices and Appeals)(England) Regulations 2002 Part 2, paragraph 4

- of the GPDO. They also submit that the installation of the septic tank is reasonably necessary for the purposes of agriculture and benefits from Part 6, Class A GPDO rights. With regard to the storage of cars, the appellants submit that they were parked in the barn and were being used as part of an acoustic research project.
23. With regard to the use of the land for the siting and residential occupation of a caravan, I find, as discussed in Appeal A, that the development has been carried out without the benefit of PD. There has therefore been a breach of planning control and the appeals on ground (c), as they relate to this part of the allegation, fail.
24. With regard to the installation of the septic tank, at the site visit I saw that it has three pick-up points, one for the caravan which is connected and two, unconnected to anything, within and adjacent to the barns. The appellants submit that the unconnected pick-up points will serve the agricultural barns and potential future development within them such as a lunch room, first aid point, a washroom and toilet. It is also a "basic human right" that workers on an agricultural unit should have access to washing facilities and a toilet as farming is a "messy business at any time of the year". In addition, the facilities replace a former septic tank system which Plas Issa benefited from in the past, when it was part of a larger holding.
25. This is disputed by the neighbouring occupier whose house, Ty Issa, was also part of the larger holding. He states that Ty Issa the holding was split into three areas of which Ty Issa House, was one and Plas Issa another. He states that at no time was the Ty Issa House septic tank connected to Plas Issa. The foul water would need to rise significantly as Ty Issa House is on much higher ground. In addition, at the site visit, Mr Anderson was unable to show me where the previous septic tank or pipe work was located as he was not 100% certain.
26. Part 6, Class A of the GPDO permits any excavation or engineering operations which are reasonably necessary for the purposes of agriculture within the unit. It is for the appellants to demonstrate that the septic tank is reasonably necessary for the purposes of agriculture within their unit. In this instance they submit it is necessary for agricultural workers on the unit and also for the future development of the barns. However, other than Mr Anderson, there appear to be no other workers on the holding and at the time of the site visit there were only 18 goats present, though there may be more in the summer.
27. The neighbouring occupier describes how the land was used in the past when it was part of a larger holding. When the holding was first split up, the previous farmer kept Plas Issa for many years as an isolation unit for his pigs, before transferring them to the main herd elsewhere in the district. It appears there was no septic tank when pigs were being kept before the land was sold to the appellants.
28. It seems to me that the appellants' septic tank is not reasonably required for agriculture, especially as they refer to it being also for the future non-agricultural use of the site, which they have already begun to implement. They not only have the use of one barn for Class R, B1 business purposes but they have also obtained an LDC earlier in 2019 for the use of a detached farm building for Class R, B8 storage purposes.

29. It is therefore considered, on the balance of probabilities, that the septic tank is not reasonably required for the purposes of agriculture. The appellants' evidence is not sufficiently precise and unambiguous to demonstrate that the development of the septic tank does not result in a breach of planning control. The appeals on ground (c) therefore fail in relation to this part of the allegation.
30. With regard to the storage of cars, this use is taking place in the barn used by the appellant for Class R, B1 business purposes. At the site visit I saw two cars in the building, one with a dust sheet covering it. The appellants state they are being used as part of a research project into the time alignment of subwoofers in studios and automobiles. That may be the case but it seems to me that they are primarily being stored in the barn. As such, this element of the allegation also amounts to a breach of planning control as the lawful use of the barn is for Class R, B1 business purposes not B8 storage purposes. The appeals on ground (c) therefore fail in relation to this aspect of the allegation.

Ground (f)

31. The appeals on ground (f) are that the requirements of the notice exceed what is necessary to achieve the purpose. The purposes of a notice are set out in section 173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). In this case the Council require that the residential use should cease and also require the removal of the caravan, the septic tank and the cars from the site. The purpose of the notice is therefore to remedy the breach of planning control.
32. The appellants submit that a lesser step would be to use the caravan, not for residential purposes, but as a first aid point, for washing and toilet facilities and as a lunch area. Failing that, the residential use of the caravan could cease and it could be stored to the rear of the barn used for Class R, B1 business purposes. With regard to the septic tank, rather than remove it completely from the land, it is submitted it could be stored to the rear of the barns. With regard to the stored cars, it is suggested that they could be parked outside one of the barns.
33. In respect to the caravan, leaving it on site either for a different use or in a different location would not remedy the breach of planning control. This is because the breach of planning control is the initial action of bringing the caravan to the site as well as using it for residential purposes. Offering to use it for another purpose or moving it to another part of the site would not remedy that initial action.
34. The purpose of requiring the removal of materials from the site that facilitate a breach of planning control is to ensure that the breach of planning control does not reoccur. So, it is therefore necessary to require the removal of the septic tank and the lesser step of storing it behind the barns would not remedy the breach of planning control.
35. With regard to the removal of the cars, the allegation is that they are stored. However, the appellant submits that they could be "parked" outside one of the barns. It may be that the use of the word "parked" is a slip of the tongue but there is a difference between a vehicle that is stored on site and one that is parked on site.

36. "Parked" is when a car is left in a convenient place for the resumption of an uninterrupted journey or the start of the next journey. It may be short term, overnight or long term. However, keeping cars on a site for example, after manufacture, or because a driver is disqualified, would be a storage use. This is because the notion of parking is that it is a temporary cessation from when the vehicle is in motion. A car is still in use when it is parked. It is probably not in use when it is put into store.
37. Given what the appellant states about the cars and the fact that one was covered in a dust sheet, it is considered that the cars are being stored and merely relocating them to a new storage position would not remedy the breach of planning control. For all of these reasons the appeals on ground (f) fail.

Conclusions

Appeal A

38. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the temporary siting of a caravan while internal building and engineering works are carried out on agricultural barns was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Appeals B and C

39. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections.

D Fleming

INSPECTOR

This page is intentionally left blank



Appeal Decision

Site visit made on 25 November 2019 by Hilary Senior BA(Hons) MCD MRTPI

by Mr A Thickett BA(Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 January 2020

Appeal Ref: APP/L3245/W/19/3237072

2 Coniston Road, Shrewsbury, SY1 4EB

- 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 Andrew Williams against the decision of Shropshire Council.
 - The application Ref 19/02907/FUL, dated 26 June 2019, was refused by notice dated 23 August 2019.
 - The development proposed is full permission for the erection of 1 no detached two storey dwelling with on-site parking for two vehicles and alterations to existing vehicular access.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site currently forms the side garden of 2 Coniston Road within the Shrewsbury urban area, where the principle of development is acceptable. Coniston Road is part of a residential area known as 'The Lakes', a mid 20th century suburban estate characterised by semi-detached houses with hipped roofs and two storey bays, largely set on a uniform building line. Pairs on corners, such as the appeal site, have generous gardens to the side which create a sense of space, altogether creating a pattern of development typical of that time.
5. The host property is in corner plot, set at an angle with amenity areas and gardens to three sides. There is a service road to the side of garden of the host property, leading to the rear of properties fronting Whitchurch Road and Grasmere Road. The proposal is for a detached dwelling, with off street parking to be sited in the garden of, and to the side of the host property. It would be separated from the host property through the construction of a close

boarded fence, which would extend to the sides and rear of the proposed dwelling. The frontage would be open to allow for the parking of vehicles for both the proposed and host property.

6. The proposed dwelling would create a prominent addition to the street scene on the main access into The Lakes. Due to its location and size it would constitute a significant intrusion in to the space created by the gardens on either side of the service road, creating a cramped form of development seriously at odds with the prevailing built form. I acknowledge the presence of the single storey commercial building opposite the site, but I do not consider that this incongruous feature justifies the addition of another.
7. The proposal would appear as a discordant feature in the street scene that would not reflect the established layout and pattern of development, leading to a cramped and overdeveloped site. Consequently, the proposal would have an adverse impact on the character and appearance of the area.
8. For these reasons the proposal would harm the character and appearance of the surrounding area and would be contrary to Policy CS6- Sustainable Design and Development Principles, of the Shropshire Core Strategy (2011) and Policy MD2- Sustainable Design, of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) which together, amongst other things, seek to ensure that development respects local character.
9. Examples of developments relating to nearby new dwellings have been submitted to the appeal. However, the full details of each case have not been submitted and therefore I cannot be certain that they are directly comparable to the appeal proposal. In any event, I have determined this appeal on the site-specific circumstances of this case.
10. I acknowledge that the proposal would provide an additional family dwelling within an established residential area adding to the housing mix. This is a benefit of the scheme to which I give limited weight in support of the proposal. However, given that the development would not respect the character and appearance of the area for the above reasons, it would not constitute the sustainable development which the government seeks to promote. Consequently, these benefits would not outweigh the harm I have identified.

Conclusion and Recommendation

11. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

A Thickett

INSPECTOR

This page is intentionally left blank



Appeal Decision

Site visit made on 17 December 2019

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2020

Appeal Ref: APP/L3245/W/19/3236202

Meadows View, Foxes Lane, Broughall, Whitchurch, Shropshire SY13 4EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q, Paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Jackson against the decision of Shropshire Council.
 - The application Ref 19/00669/PMBPA, dated 10 January 2019, was refused by notice dated 16 May 2019.
 - The development proposed is a change of use from agricultural to residential use.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The proposed development includes a change of use of a building and land and the associated building operations necessary to convert the building. The application was therefore submitted under parts Q(a) and Q(b) and I have considered it on that basis.
3. Schedule 2, Part 3, Paragraph W of the GPDO sets out the prior approval process. It states¹ that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified as being applicable to the development in question.
4. Although the Council considered that the proposed development fell outside the scope of Schedule 2, Part 3, Class Q of the GPDO (Class Q), it proceeded to determine that prior approval for the development was required and was refused. Accordingly, I have addressed the Council's case in full in the interests of clarity and completeness.

Main Issue

5. The main issue is whether the proposal would be permitted development under Class Q.

¹ Paragraph W.(3)

Reasons

Curtilage

6. Class Q(a) provides for the change of use of a building and any land within its curtilage. 'Curtilage' for the purposes of Class Q is defined in paragraph X 'Interpretation of Part 3'. Amongst other things, this limits 'curtilage' to the area of land immediately beside or around the agricultural building which is no larger than the land area occupied by the agricultural building.
7. Section 4 of the application form identifies the extent of the curtilage of the building which would change use as 270m². The area of land occupied by the building has been clarified as 210.18m². As such, the curtilage would exceed the footprint of the building and therefore it could not benefit from deemed permission under Class Q.

Suitable for conversion

8. The scheme includes building works as part of the proposed development. Under paragraph Q.1 (i), development is not permitted by Class Q if development under Class Q(b) would consist of building operations other than those specified and partial demolition necessary to carry out those building operations.
9. The Planning Practice Guidance (PPG) provides advice on the extent of building works which may be carried out in accordance with the permitted development right under this Part. In this regard, it makes clear that the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and which would otherwise require planning permission.
10. The Council have referred to the judgement in *Hibbitt v SSCLG* [2016] EWHC 2853 referenced in the PPG. This established that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. It was held that the distinction between a conversion and a rebuild is a matter of legitimate planning judgement.
11. The appellant has set out the scope of additional works required to complete the conversion. Whilst the works to the elevations and within the building would be extensive, they equate to the installation or replacement of windows, doors, roofs, exterior walls and services reasonably necessary for the building to function as a dwelling house which are specified within Q.1 (i).
12. However, the Structural Inspection by Sutcliffe Civil & Structural Engineers (SI), concludes that the steel frame may require structural remediation and improvement to facilitate conversion to a suitable standard for residential purposes. It highlights concerns in relation to the framing baseplates and a requirement to undertake more detailed inspection of the foundations and substrata that supports the structural framework.
13. The SI also suggests a necessity for additional bracing to the roof and full-height bracing between the structural frames. The report also recommends removal and replacement of the floor slab due to the effect of previous uses and potential for contamination.

14. Although the PPG states it may be appropriate to undertake internal structural works, including to allow for a floor, the SI fails to conclude as to the extent of any necessary works. Furthermore, it fails to conclude that the structure is capable of supporting the proposed cladding and alterations to the roof. The extent of the necessary works is undefined and could subsequently extend to the substantial re-building of the main structure and foundations. Based on the submitted evidence, I conclude that there is insufficient information to establish whether the proposed development falls within the scope of reasonably necessary works to convert the building and therefore whether it complies with paragraph Q.1(i) and benefits from deemed permission under Class Q.

Ecology

15. The Council has identified the potential of the development to have an adverse effect on protected species (Great Crested Newts) due to the proximity of the development to a pond. Regulation 9 of the Conservation of Habitats and Species Regulations 2017 imposes a duty on me to have regard to the likelihood of European Protected Species being present and affected by the proposed development.
16. In support of the appeal, the appellant has provided a commentary advising that due to the distance of the building from the pond, the intervening road and use by cattle it is unlikely that Great Crested Newts would be present on the site. However, in the absence of detail of the location of the pond or survey effort to establish their presence or absence, this level of information is inconclusive for the purposes of assessment under Regulation 9 and therefore insufficient to measure any effect on European Protected Species. Accordingly, I conclude that there is insufficient information to establish whether the siting of the building would make it undesirable to change from agricultural use to a residential one and therefore benefits from the deemed permission under Class Q in that respect.

Other Matters

17. The appellant has referred to another example of prior approval relating to what he considers is a comparable barn elsewhere. In the absence of the full details and the circumstances of that case I am unable to draw comparisons. In any event, I have determined this appeal on its own merits in the light of the evidence before me.

Conclusion

18. For the above reasons, the appeal should be dismissed.

R Hitchcock

INSPECTOR

This page is intentionally left blank



Appeal Decision

Site visit made on 6 January 2020

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2020

Appeal Ref: APP/L3245/W/19/3238792

Prospect House, Belle Vue Road, Shrewsbury, Shropshire SY3 7NR

- 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 Furrows Holdings against the decision of Shropshire Council.
 - The application Ref 19/02572/FUL, dated 3 June 2019, was refused by notice dated 25 September 2019.
 - The development proposed is the erection of 2no. semi-detached dwellings.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 2no. semi-detached dwellings at Prospect House, Belle Vue Road, Shrewsbury, Shropshire SY3 7NR in accordance with the terms of the application, Ref 19/02572/FUL, dated 3 June 2019, subject to the conditions set out in Annex A.

Main Issue

2. The main issue in the appeal is whether or not the proposed development would provide adequate living conditions for future occupiers with particular regard to internal and external space.

Reasons

3. The appeal site is a long narrow area of land that currently forms part of the car parking associated with Prospect House. The site is located in a densely developed residential area that comprises mainly terraced housing. Within the area there are examples of houses set perpendicular to the road and set back behind other housing. As such, the location of the proposal at the rear of housing on Belle Vue Road would not appear incongruous or out of keeping.
4. I have not been made aware that the Council has any policies that set out minimum standards for internal or external space for new dwellings, although Policy CS6 of the *Shropshire Core Strategy (adopted March 2011)* (SCS) indicates that developments should achieve applicable national standards. The appellant has indicated that the houses would be 3 bedroomed / 4 person dwellings and would have a gross internal area of 84 sqm which accords with the national space standards. This has not been disputed by the Council.
5. The plans show that every habitable room would be provided with at least one good sized window ensuring good light is provided to each room. In addition, the rooms would have adequate circulation space as well as being able to

- accommodate a range of furniture. Given this I am satisfied that the proposal would provide adequate internal space for occupiers.
6. The appellant has indicated that each dwelling would have just over 40 sqm of outdoor space. This would be located at the side of each house with direct access from the kitchen/ dining room as well as the utility room. The external space would comprise a mix of hard and soft landscaping. Although modest in size the gardens would have space for play, storage and the drying of washing. Moreover, as the gardens would be commensurate in size to those associated with many other houses in the locality they would not appear out of character.
 7. Therefore, I consider that the proposal would provide adequate living conditions for future occupiers with particular regard to internal and external space. As such, it would not represent the over-development of the site. Accordingly, there would be no conflict with Policy CS6 of the SCS or with Policy MD2 of the *Site Allocations and Management of Development Plan (adopted December 2015)* which require proposals to have a high quality of design that respects and reflects local characteristics and safeguards residential and local amenity. Nor would it be contrary to paragraph 127 of the National Planning Policy Framework that seeks to ensure that developments provide a high standard of amenity for existing and future users.

Other matters

8. The site is located within Belle Vue Conservation Area. A heritage assessment was submitted with the application. The Council has not disputed its conclusion that the proposal would improve the appearance of the site and would at least preserve the character and appearance of the conservation area. Nothing I have seen or read leads me to come to a different conclusion in this respect. Consequently, I am satisfied that the proposal would preserve the character and appearance of the heritage asset.
9. Concerns have been raised that the front doors of the house would open out onto the car park. However, the plans show that there would in fact be a small paved area between the front of the houses and the car park. Moreover, I note that the car park is a private one providing parking for adjacent housing. As such, traffic movements are likely to be limited. As such, I consider the proposal would provide a safe and secure access for future occupiers.

Conclusion and Conditions

10. For the reasons set out above I conclude the appeal should be allowed.
11. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans, as this provides certainty. In the interests of the character and appearance of the conservation area conditions are required to control the external appearance and landscaping of the proposal.
12. In order to ensure the adequate drainage of the site it is necessary to control details of the disposal of foul and surface water from the site. As this relates to work that would need to be done during the construction period, it needs to be a pre-commencement condition. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to this pre-commencement condition.

13. The *Planning Practice Guidance* indicates that conditions removing permitted development rights should only be used in exceptional circumstances. Given the close proximity of the proposed dwellings to the common boundary with other properties, in order to protect the living conditions of adjacent occupiers, as well as to ensure adequate external space for future occupiers, I consider the removal of certain of these rights is necessary in this case.

Alison Partington

INSPECTOR

Annex A

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location and Block Plan Drawing No PL-001; Proposed Site Plan and Site Section Drawing No PL-002; Proposed Plans Drawing No PL-003; Proposed Elevations 01 Drawing No PL-004; Proposed Elevations 02 Drawing No PL-005A Rev A; 3D Visualisations Drawing No PL-006; and Proposed Landscape Plan Drawing No PL-007A Rev A.
- 3) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to their installation full details of all external windows (including the roof windows), doors and any other external joinery 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. Development shall be carried out in accordance with the approved details
- 5) No development shall take place until a scheme for 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 either dwelling is occupied.
- 6) All hard and soft landscaping shall be carried out in accordance with Drawing No PL-007A Rev A. The landscaping works shall be fully implemented before either dwelling is occupied. 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 be replaced with others of species, size and number as originally approved, by the end of the first available planting season.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2 Part 1 Class A, B or D shall be erected, constructed or carried out.



Appeal Decision

Site visit made on 28 November 2019

by **R Morgan MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 January 2020

Appeal Ref: APP/L3245/W/19/3236987

Shelvock Hall, Ruyton XI Towns, Shrewsbury, Shropshire SY4 1JL

- 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 James Corbett against the decision of Shropshire Council.
 - The application Ref 19/00075/FUL, dated 7 January 2019, was refused by notice dated 19 June 2019.
 - The development proposed is an agricultural building and access track.
-

Decision

1. The appeal is allowed and planning permission is granted for an agricultural building and access track at Shelvock Hall, Ruyton XI Towns, Shrewsbury SV4 1JL in accordance with the terms of the application, Ref 19/00075/FUL, dated 7 January 2019, and the plans numbered AT-04; AT-03; AT-GD-01; AT-GD-02 and Landscaping plan AT-03, subject to the following conditions:
 - 1). Unless the approved landscaping scheme shown in plan AT-03 is implemented by the end of the first planting season following the date of this decision, the use of the building shall cease and all equipment and materials brought onto the land for the purposes of the use shall be removed until such time as the approved landscaping scheme has been implemented. Any trees which within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of a similar species, size and number, by the end of the first available planting season.
 - 2). Notwithstanding the provisions of Town and County Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification) no floodlighting or any other external lighting shall be installed at the site.

Procedural Matter

2. The agricultural building and access track which are the subject of this appeal have already been constructed. The application is therefore retrospective and I have determined the appeal on the same basis.

Main Issues

3. The main issues in this case are:
 1. Whether the location of the development is appropriate;
 2. Whether the amount of additional storage space is justified in relation to the size and nature of the agricultural operations;

3. The effect of the agricultural building and access track on the character and appearance of the area; and
4. Whether the access track is satisfactory for the type of development proposed.

Reasons

Location of the development

4. The appeal relates to a steel portal framed agricultural building which is located adjacent to another, slightly smaller agricultural building of a similar design. This second building has recently been constructed under permitted development rights, the Council having confirmed that prior approval was not required¹. Both buildings are in an elevated position on the top edge of a field which slopes up from the lane which is known as Grug Hill. The buildings are positioned in front of a coppice of trees, which has been partly cleared to accommodate them, and are served by an access track which runs from the lane up to the site, following the field boundary.
5. The main farm buildings at Shelvock Hall are located around 600 metres to the north east of the appeal building, on the other side of Grug Hill. The complex includes a number of listed buildings, and planning permission was granted in 2013 for the conversion of some of the buildings to leisure facilities including holiday accommodation and a function venue². This permission has been implemented and is therefore extant.
6. Policy MD7b of the Shropshire Site Allocations and Management of Development Plan 2015 (SAMDev) sets out criteria for assessing applications for new agricultural development. Criterion 3(b) states that, where possible, buildings should be sited so they are functionally and physically closely related to existing farm buildings.
7. In this case, the appeal building is located next to another barn which it is closely related to, both physically and functionally. The adjacent building may not have been completed when the Council made its decision, but by the time of my visit it was fully finished and in use.
8. I note the Council's concerns that the appeal building is located some distance from the original farm complex, and that options for siting it closer to those buildings have not been adequately addressed. It is clear, however, that once implemented, the approved leisure development will represent a significant change which will impact on the agricultural activity on the farm. Given the nature of the activities involved, a degree of functional and physical separation from the agricultural operation will be required.
9. Any new agricultural building would therefore need to be some distance from the original farm buildings and would have the potential to appear distinct from it. The appellant also states that the area to the north of the original buildings, suggested as an alternative location by the Council, would require extensive engineering operations to create level ground for an agricultural building. The siting of the appeal scheme, adjacent to another barn, set against the backdrop

¹ Application reference 17/00469/AGR

² Application references 11/05772/FUL, 11/05774/LBC

of the existing tree coppice and accessed via a shared track is therefore appropriate and justified.

10. I acknowledge the Council's concerns regarding the potential for fragmentation of the agricultural unit, and that further intensification of the area around the appeal site could cause harm to the rural character of the area. These concerns, whilst understandable, do not make the appeal development unacceptable. Any future proposals for development would need to be considered on their own merits.
11. I therefore conclude that by reason of its siting adjacent to an existing farm building, and set against the backdrop of the existing coppice, the location of the development is acceptable. In this regard there is no conflict with the requirements of SAMDev Policy MD7b 3(b). There is also no conflict with Core Strategy Policy CS5 which supports the principle of agricultural development in the countryside, or Core Strategy Policy CS6 and SAMDev Policy MD2 which are concerned with sustainable design.

Whether the additional storage space is justified

12. The farm is over 170 hectares in size and is a mix of arable and livestock. The appeal building is of a functional type and design which is clearly appropriate for agricultural use. It provides some 725 square metres of storage space which, in addition to the adjacent barn, gives a total floorspace of around 1,165 square metres.
13. The appellant confirms that, other than the appeal building and adjacent barn, the holding has no other agricultural buildings. Although the conversion of the original farm buildings is not yet complete, the Council accepts that they are in a dilapidated state and are no longer viable for modern farming. It is not unreasonable to expect a farm holding of this size to have agricultural buildings on site to support the activities on the farm.
14. I acknowledge that detailed evidence as to the farm operations and associated storage requirements is limited. However, invoices have been submitted which clearly show that the appellant has had to rent storage space in barns nearby. This indicates that alternative, off site options have been used to support the agricultural operation.
15. Furthermore, during my site visit I saw that the appeal building was being used for the storage of hay and housing cattle, whilst the second barn was being used for storing hay and tractors. Both buildings were well used and there did not appear to be any surplus storage space. Immediately behind the buildings was an area which had been cleared of trees and was being used for storage of tractors, trailers and other vehicles as well as hay bales and timber. Other livestock including sheep and guinea fowl were also present.
16. Based on the evidence provided, and observations at my site visit, I therefore conclude that the additional storage space is justified and proportionate to the size and nature of operations at the farm. As a result, there is no conflict with SAMDev Policy MD7b which permits agricultural development where it can be demonstrated that the development is of a size, scale and type which is consistent with its required purpose and the nature of the agricultural enterprise. There is also no conflict with Core Strategy Policy CS5 which supports the principle of new agricultural development in the countryside.

Character and appearance

17. The appeal building is sited in an elevated position but appears to be 'tucked in' in front of the coppice of trees and does not exceed them in height. The Council's statement refers to the building as having blue clad walls and a white colour roof. However, by the time of my visit the walls and roof had been changed to a dark green colour, to match the adjacent building. The trees behind the buildings are predominately coniferous and the dark green colour metal cladding of the barn helps it to blend in.
18. From the surrounding countryside, the undulating form of the landscape and the hedges which line the lanes provide effective screening from many vantage points. Where the building and adjacent barn are visible, the views are distant, across fields. Despite its size and position, the building does not appear as a prominent feature in the landscape.
19. Notwithstanding that, additional planting as shown on the landscaping scheme would provide better screening and further help to reduce the visual impact of the building. The submitted landscaping plan does not show the position of the access track, but the line of recently planted trees in front of the track shows the intended position of the trees and demonstrates that it is capable of being implemented. Requiring the landscaping to be completed could be adequately controlled through the use of an appropriately worded planning condition.
20. I therefore conclude that the development does not cause harm to the character and appearance of the area. As such there is no conflict with Core Strategy Policies CS5, CS6 and CS17 regarding the impact of development on the natural environment, local context and character; SAMDev Policies MD2 and MD7b which are concerned with location, design and landscaping; and Policy MD12 regarding the protection of Shropshire's natural assets. Similarly, the proposal accords with section 15 of the National Planning Policy Framework (Framework) concerning the conservation and enhancement of the natural environment.

Access track

21. The Council states that insufficient information has been provided to demonstrate that the new access track will avoid highway safety concerns. However, at the time of my site visit I saw that the gate leading to the access track was set-back from the highway. The appellant also confirms that the site entrance is approximately 16 metres wide. Sufficient space has therefore been provided to allow agricultural vehicles to pull clear of the highway when entering the site, and to stop and give way to oncoming traffic when re-joining Grug Hill.
22. It is also important to consider that within the vicinity of the site Grug Hill is a very quiet country lane, in places only wide enough for one vehicle to pass. Moreover, the level of additional traffic expected to be generated by the appeal scheme is low. Based on the evidence provided, and observations at my site visit, I am not persuaded that the access arrangements will give rise to any dangerous vehicle movements. Although the Council refers to current highway standards, no details have been provided, nor any robust information to show that the access is unsafe.

23. I therefore conclude that the access track is satisfactory for the type of development proposed and will not prejudice highway safety. As a result, there is no conflict with SamDev Policy MD2 which requires development to have appropriate infrastructure, or Core Strategy Policy CC6 which requires all development to be safe and accessible to all. For the same reasons I also find no conflict with the Framework which requires the provision of a safe and suitable access to the site for all users.

Conditions

24. The development has already been carried out in accordance with the approved plans, except for the landscaping scheme which has not been fully implemented. In the interests of safeguarding the character and appearance of the area, a condition is required to ensure compliance with that scheme and to ensure that any trees which are damaged or replaced within 5 years are replaced.

25. The Council's suggested condition requiring retention of hedges is not needed. There is nothing to suggest that the hedges would be removed, and their retention is not necessary to make the development acceptable in planning terms. Furthermore, the hedges mentioned are outside of the site boundary and therefore beyond the scope of this permission.

26. It is also unnecessary to specify the colour of the building as it is already dark green. Similarly, the description of development refers to the approved building as being for agriculture and it is not necessary to impose a condition to specify this.

27. To protect the rural character of the area a condition restricting floodlighting is required. However, it is not necessary to insert the word 'permanent' in this condition, as suggested by the appellant, as it should be relatively easy to differentiate between floodlighting and internal or vehicle lights.

28. The Council has suggested a condition requiring the gate to be set back by 15 metres, but this is not needed as the gates are already well set back from the road and I have found the access to be suitable. A further condition is suggested which would require the access apron to be made to the Council's specification, but I have seen no details of what this would entail or any explanation as to why it is necessary to make the development acceptable. Given my earlier conclusions about the access, these suggested conditions are therefore unnecessary, and I have not imposed them.

29. The Council has also suggested a condition removing permitted development rights for the erection of new agricultural buildings 'within the application site or on this parcel of land'. Whilst I appreciate the Council's concerns regarding the potential for additional development away from Shelvock Hall, no convincing justification has been provided to demonstrate why this is reasonable or necessary in the interests of the character and appearance of the area. Given that the appeal site boundary is drawn tightly around the building and access track it is also unclear which parcel of land is being referred to. The condition therefore also fails the test of precision.

30. The Council's suggestion to restrict the storage of goods or materials of any description outside the building is very broad in its scope. It could include items which would be expected in the countryside, such as hay bales, which would

not necessarily cause harm to the general appearance of the area. The condition is unduly restrictive and would be difficult to enforce. I have therefore not imposed it.

Conclusion

31. For the reasons given I conclude that the development is acceptable subject to the conditions. The appeal is therefore allowed.

R. Morgan

INSPECTOR