

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

Date: Monday, 9 November 2020

**Committee:  
Southern Planning Committee**

**Date: Tuesday, 17 November 2020**  
**Time: 2.00 pm**  
**Venue: THIS IS A VIRTUAL MEETING**

**Members of the public will be able to listen to this meeting by clicking on this link:**  
<https://www.shropshire.gov.uk/southernplanningcommittee17november2020/>

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

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

**Members of the Committee**

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

**Substitute Members of the Committee**

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

Your Committee Officer is:

**Tim Ward**    Committee Officer

Tel:                    01743 257713

Email:                [tim.ward@shropshire.gov.uk](mailto:tim.ward@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive any apologies for absence.

## 2 Minutes

To confirm the minutes of the South Planning Committee meeting held on 20 October 2020 (**TO FOLLOW**)

Contact Tim Ward (01743) 257713.

## 3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is no later than 2.00 pm on Friday 13 November 2020.

## 4 Disclosable Pecuniary Interests

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

## 5 Proposed Dwellings To The North Of Leigh Road Minsterley Shrewsbury Shropshire (20/02247/REM) (Pages 1 - 12)

Approval of Reserved Matters (appearance, landscaping, layout and scale) pursuant to outline consent 18/05802/OUT for residential development of 28No. dwellings to include some demolition

## 6 Single Plot Exception Affordable Dwelling Lower Lane Wistanstow Shropshire (20/03378/FUL) (Pages 13 - 26)

Erection of an affordable dwelling with detached garage to include package treatment plant

## 7 Schedule of Appeals and Appeal Decisions (Pages 27 - 56)

## 8 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 15 December 2020.

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Committee and date

Southern Planning Committee

17 November 2020

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 20/02247/REM	<b>Parish:</b>	Minsterley
<b>Proposal:</b> Approval of Reserved Matters (appearance, landscaping, layout and scale) pursuant to outline consent 18/05802/OUT for residential development of 28No. dwellings to include some demolition		
<b>Site Address:</b> Proposed Dwellings To The North Of Leigh Road Minsterley Shrewsbury Shropshire		
<b>Applicant:</b> Long Mynd Homes Limited		
<b>Case Officer:</b> Nanette Brown	<b>email :</b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a>	
<b>Grid Ref:</b> 337216 - 305088		
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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application seeks planning permission for reserved matters including appearance, landscaping, layout and scale following the approval of outline planning consent for the site for residential development, planning reference 18/05802/OUT. The outline permission included the access off Leigh Road.
- 1.2 The submitted plans show a development of 28 dwellings, comprising of 4 detached dwellings and 24 semi-detached dwellings. The site is to be accessed off Leigh Road via the access approved as part of the earlier outline consent. Landscaping details have also been provided, retaining the existing field boundary fence that exists to the north west boundary and providing landscaped public open space areas through the centre of the site. The proposed dwellings will consist of a mixture of brick and render and slate tiled with timber windows.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is situated to the north western side of Minsterley, to the north of Leigh Road and west of Horsebridge Road. Access to the site is shown to be taken from Leigh Road, across the site that currently consists of one detached dwelling, The Hall Cottage. The site is surrounded on three sides by existing residential properties and to the north west lies open fields/open countryside.
- 2.2 The site is currently split into three parcels with the property and garden area to The Hall Cottage at its southern end. To the rear (north) of The Hall Cottage lies a redundant storage building/barn and to the north again is the largest part of the site, currently formed by a parcel of land set to grass, currently used for grazing. This part of the site is roughly square shaped and is bounded by a mature hedgerow on the northern western boundary.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Minsterley Parish Council have submitted a view contrary to officers' recommendation for approval based on material planning reasons that cannot reasonably be overcome by negotiation or the imposition of planning conditions and the Locally Elected Member has also raised objections and requested the application be determined by Planning Committee. In consultation with the Chair and Vice Chair of the Planning Committee and the Principal Planning Officer at the agenda setting meeting it was agreed that the application is to be considered by Planning Committee.

### 4.0 Community Representations

4.1 - Consultee Comments

4.1.1 SC Archaeology - No objections

Refer to the requirements of (pre-commencement) Condition 5 of the outline planning permission ref. 18/05802/OUT. No further comments to make on this application with respect to archaeological matters.

4.1.2 SC Affordable Housing - No objections

Support - affordable dwellings as 2 x 2 bed and 2 x 3 bed on plots 4,5,6 and 7. There will be a requirement for at least two of these dwellings to be rented tenure. In addition, a financial contribution will be required for the remaining fraction (15% of 28 = 4.2).

4.1.3 SC Conservation - No objection

Most of the houses proposed do feature more traditional materials and details including chimneys (following receipt of amended plans); detached garage plans are satisfactory; external materials should be conditioned in order to agree the brick type and render colour as well as roof materials; recommend that windows are good quality flush fitting designs in painted timber (as indicated) and that rainwater goods are at least the cast look type if not metal.

If solar panels or other microgeneration features are being proposed they should be the low profile good quality matte black type to minimize visual impact details to be agreed.

It is also again noted that any works at the proposed Leigh Road access should be such that the Grade II listed timber clad barn adjacent to the access lane is fully protected.

Any additional boundary treatments beyond hedging should be provided for approval.

4.1.4 SC Ecology - No objection

4.1.5 SC Suds - comments

No proposed drainage details, plan and calculations have been submitted for comment.

The proposed drainage details, plan and calculations shall be submitted for approval before the development commences as per Drainage Condition 6 on Outline Application 18/05802/OUT

4.1.6 SC Waste Management - Comments

It is vital new homes have adequate storage space to contain wastes for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material).

Also crucial is that they have regard for the large vehicles utilised for collecting

waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste. Any access roads, bridges or ramps need to be capable of supporting our larger vehicles which have a gross weight (i.e. vehicle plus load) of 32 tonnes and minimum single axle loading of 11 tonnes.

Recommend that the developer look at the guidance that waste management have produced, which gives examples of best practice. This can be viewed here: <https://new.shropshire.gov.uk/media/7126/shropshire-refuse-and-recycling-planning-guidance-july-2017-002.pdf>

Particular concern is given to plots 14-28 which are on private drives that the vehicles would not access. Bin collection points would need to be identified and residents advised when they move in/purchase.

Residents would also need to be made aware that they would be collection points only and not storage points where bins are left permanently.

#### 4.1.7 Locally Elected Member (Cllr Nick Hignett) - Objection

I have the following concerns regarding the Reserved Matters for this Development: Unsafe Pedestrian Access/Egress to the proposed Dwellings, particularly from Horsebridge road. 28 (30) dwellings will result in a considerable number of People, including children, trying to walk to the centre of Minsterley village. Better footpath provision should be included as part of this Application.

This should incorporate a Safe Crossing point on the Leigh Road.

Solar/Photovoltaic Panels should be included on the Properties to help offset some of the Carbon footprint.

Some Bungalows should be included. There is a recognised demand for these in the Rea Valley Ward.

Streetlights should be included and adopted by Highways to aid Safety in this area.

If these issues cannot be agreed with the Developers, then I request that this Application be referred to Committee for Determination,

#### 4.1.8 Minsterley Parish Council - objection

The Parish Council objects to the detailed plans and would ask that they go to committee where a member of the Council would like to speak at the meeting.

Details of concerns include :-

There are issues with safe pedestrian access to the development. A new light and safety barriers need to be incorporated on the access to Horsebridge Rd where there is no footpath

All lights on site to highway standard.

Open spaces taken over by Shropshire Council for maintenance of same.

For residents walking on the Leigh road, a safe place to cross when reaching the footpath by the new Vicarage.

There are no bungalows on the development.

new homes should include an electrical output for vehicle charging

All new homes should include solar panels



There are concerns about site vehicular access and work times, remedial actions need to be agreed to circumvent this. Wheel washers to keep road clear of debris from the site.

Details of Sect 106 monies or CIL available to the Parish

4.2 - Public Comments

4.2.1 8 Objections received to this application summarised as follows:

Principle

Minsterley is too small a village to support more homes; local schools can not accommodate additional pupils; local services such as doctors and dentist will be further stretched; developer should contribute towards village facilities; site sits outside identified and adopted development boundary and is contrary to policy.

Design/Landscaping

There are no bungalows proposed; designs should incorporate electrical charging points and solar panels; hedgerow at the NW boundary should be retained; existing well on site should not be abandoned and capped - some Horsebridge Road residents have a right of way and access to this well; loss of one of very few Ridge and Furrow fields from medieval times.

Access/Highway Safety

No bus route covers Leigh Road; nothing proposed to mitigate road safety; local roads to the site are dangerous and there is no pedestrian footpath to Horsebridge Road; increase in traffic on adjacent roads not safe; access into site is too narrow.

Residential Amenity

Loss of privacy, overshadowing and noise and disturbance to adjacent houses to the site.

Drainage

No resolution as to how surface water will be discharged in a high water table area; there will be flooding at the north east corner of the site; no details given of sewage connection.

Building works

Details of contractor parking, wheel washing of construction/delivery vehicles and working times.

5.0 **THE MAIN ISSUES**

**Principle of development**

**Scale, Layout and Appearance**

**Landscaping and Public Open Space**

**Other Matters**

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 The principle of residential development of this site has been accepted with the grant of outline planning permission ref: 18/05802/OUT, including access. The matters for consideration in this reserved matters application are solely those relating to the layout, appearance, and landscaping and scale.

### 6.2 Scale, Layout and Appearance

6.2.1 Core Strategy policy CS6 and SAMDev policy MD2 both to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment.

6.2.2 Layout - The submitted layout shows the access road to serve the properties entering the site at its southern boundary onto Leigh Road. The roadway will then travel northwards through the site with shared driveways leading off, giving access to some of the dwellings. An area of public open space is centrally located within the site with a small open area also located to the northern corner of the site. It is considered that the proposed layout provides adequate public open space and maintains adequate distances between the proposed dwellings and those existing dwellings closest to the site, sufficient to maintain and protect residential amenity/privacy.

A footpath link is shown at the northern end of the site leading off the end of the internal roadway. This would link to a pathway included in a previously granted planning permission for two dwellings in the land edged blue on the submitted plans (planning ref 19/03598/FUL) that would then connect to Horsebridge Road. This footpath link would allow those walking southwards into the village along Horsebridge Road the choice to walk through this site in order to gain access towards the centre of the village without walking further along the southern part of Horsebridge Road that has no pedestrian footpath.

6.2.3 Scale - The proposed houses consist of 3x 4bedroom detached properties, 1x 3bedroom detached property, 16x 3bedroom semi-detached properties and 8x 2 bedroom semi-detached dwellings. All of the dwellings would be two storeys in height. Objections to the application have been made on the grounds that no bungalows are proposed, but this was not a requirement of the outline consent and the current two storey dwellings proposed reflect the scale of two storey dwellings that surround the site. The proposed layout and scale of the development is considered to be appropriate to the surrounding mix of residential dwellings.

6.2.4 Appearance - The proposed houses are of a modern two storey design and would be constructed with traditional brick and slate tiles, some rendered houses with

chimney detailing and painted timber windows and doors. It is considered that the proposed house types/designs would adequately compliment the modern dwellings that already exist nearby, particularly to the west of the application site, as well as reflecting the more traditional properties located in the locality. The new dwellings would form an acceptable part of the mix of housing that surrounds the site in terms of both house design and materials.

### 6.3 **Landscaping and Public Open Space**

6.3.1 The proposed landscaping scheme is simple in form with the existing boundary hedges retained including the hedge that forms the north west boundary of the application site. New small and medium sized trees are shown to be set around the central areas of the site. It is considered that the proposed landscaping is acceptable in this instance.

6.3.2 2376 square metres of open space is shown on the submitted plans, mostly located within the central part of the site. The amount being provided and as stated on the site plan drawing is commensurate with the 30sqm per person standard and is well located to serve the development and wider area, and would also enhance the appearance of the street scene.

### 6.4 **Other Matters**

6.4.1 Drainage - Matters of drainage were considered as part of the earlier outline planning consent and a condition was added to the outline consent requiring further details of surface water drainage to be submitted for approval by the local planning authority prior to the commencement of building works. These details have not been submitted as part of this reserved matters application and will still need to be submitted as a separate discharge of conditions submission.

6.4.2 Highways - Details of the proposed access arrangement have been submitted with this application. A pedestrian crossing point to Leigh Road was not requested at the time of the time of the outline planning consent either by condition or through a Section 106 Agreement. Such off site works cannot be sought subsequently through consideration of a reserved matters submission.

6.4.3 Ecology - SC Ecologists have not raised any objections to this application.

6.4.4 EIA (Agriculture) (England)(2) Regulations 2006 – One neighbour has raised the issue of this legislation as this site forms an ancient pasture, Ridge and Furrow field dating back to AD1274. Officers note that this legislation is separate from the planning legislation that can be used to determine this planning application and that the applicants will need to satisfy themselves that they meet any requirements that this may have in addition to securing planning permission.

### 7.0 **CONCLUSION**

7.1 The principle for residential development has been agreed with the grant of outline planning permission. The Appearance, Landscaping and Layout of the proposed

development are considered to conserve and enhance the natural and built environment of this location and are appropriate in density, pattern and design taking into account the sites location within Minsterley. Accordingly, it is considered that this proposal is in compliance with the development plan, in particular policies CS6, CS17 and MD2, and can be made acceptable by the attachment of 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

Shropshire Core Strategy and SAMDev Plan Policies:  
CS3 - The Market Towns and Other Key Centres  
CS6 - Sustainable Design and Development Principles  
CS17 - Environmental Networks  
MD2 - Sustainable Design  
MD13 - Historic Environment

### RELEVANT PLANNING HISTORY:

14/03334/OUT Outline application for the erection of 1No dwelling and vehicular access following demolition of existing buildings (to include access and scale) GRANT 19th January 2016

## 11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online->

[applications/applicationDetails.do?activeTab=details&keyVal=QBO7ITTDN2G00](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Planning file 20/02247/REM

Cabinet Member (Portfolio Holder)  
Councillor Gwilym Butler

Local Member  
Cllr Nick Hignett

Appendices  
APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

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

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

2. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls of the new dwellings, including bricks, render colour and texture and joinery materials and finishes, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

3. All hard and soft landscape works shall be carried out in accordance with the approved plan SA33768-15RevB. The works shall be carried out prior to the occupation / use of any part of the development hereby approved. Any trees or hedgerow plants that, within a period of five years after planting, are removed, die or become 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.

### Informatives

1. This planning permission notice must be read in conjunction with the outline planning permission notice reference 18/05802/OUT granted 07.08.2019 where additional conditions are attached.

2. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street

nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: [snn@shropshire.gov.uk](mailto:snn@shropshire.gov.uk). Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

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. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £116 per request, and £34 for existing residential properties.

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

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## Development Management Report

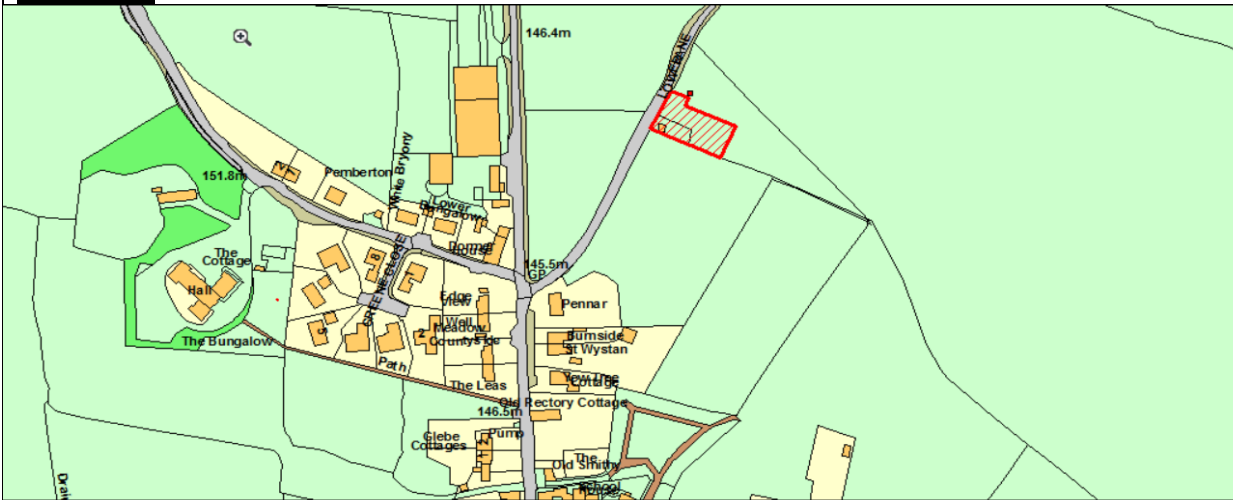
Responsible Officer: Tim Rogers

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

### Summary of Application

<b><u>Application Number:</u></b> 20/03378/FUL	<b><u>Parish:</u></b>	Wistanstow
<b><u>Proposal:</u></b> Erection of an affordable dwelling with detached garage to include package treatment plant		
<b><u>Site Address:</u></b> Single Plot Exception Affordable Dwelling Lower Lane Wistanstow Shropshire		
<b><u>Applicant:</u></b> Mr & Mr Andrew & Kelly Jones		
<b><u>Case Officer:</u></b> Helen Tipton	<b><u>email :</u></b> <a href="mailto:planning.southern@shropshire.gov.uk">planning.southern@shropshire.gov.uk</a>	

**Grid Ref:** 343288 - 285882



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**Recommendation:- Refuse.**

**Recommended Reason for refusal**

1. The site is in open countryside and is not within or adjoining any recognisable named settlement. Consequently, and notwithstanding the fact that the applicants have been found to fulfil the local connections and housing need criteria for a designated affordable home, the development would detract from the essentially open character of the Shropshire Hills Area of Outstanding Natural Beauty and the development is contrary to the National Planning Policy Framework, Policies CS5; CS6; CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy, Policies MD2; MD3; MD7a and MD12 of the Shropshire Council Site Allocations and Management of Development Plan, and the Council's Supplementary Planning Document on the Type and Affordability of Housing.

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

- 1.1 The planning application seeks permission to erect a Single Plot Exception (SPE) affordable dwelling with detached garage, to include the installation of a package treatment plant.
- 1.2 The proposed dwelling would be of a single-storey and constructed of brick, beneath a tiled roof for occupation by named individuals in local housing need. The associated double garage would be timber clad, below a tiled roof and vehicular access to the site would utilise an existing field entrance.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site comprises of the south western corner of a field of 'strip grazed' pasture, which is set to the east of Lower Lane, between Wistanstow village and Leamoor Common, near Craven Arms.

Situated within the Shropshire Hills Area of Outstanding Natural Beauty, (AONB), the site is located on a relatively level area of ground, with views stretching east, over farm land, to raised woodland, whilst other views are limited by the topography of the site and by boundary hedgerow.

The nearest built development comprises of a group of farm buildings, approximately 90 metres to the west and a residential dwelling, (forming part of a spur of housing to the south west of the site), which sits approximately 105 metres away.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Town Council have provided views contrary to delegated officers and the Local Member also supports the proposals, having requested, within 21 days of being validated, that the application should be decided by the Planning Regulatory Committee. This triggers automatic referral for a committee decision.

#### 4.0 Community Representations

##### 4.1 Consultee Comments

##### 4.1.1 Shropshire Council Ecology - comment.

15 September 2020 - comment.

Any ponds (or waterbodies) within 250 metres of a minor planning application should be assessed in terms of their broad suitability to support great crested newts by carrying out a Habitat Suitability Index (HSI) assessment.

If any pond is calculated as being suitable then it may be necessary to carry out a presence/absence survey for great crested newts which is made up of 4 survey visits between mid-March and mid-June, with at least 2 visits between mid-April and mid-May. Three survey methods, (preferably torch survey, bottle trapping and egg searching) should be used on each survey visit. If great crested newts are discovered then it may be necessary to carry out a population size class estimate, which involves an additional 2 visits in the specified time period.

A recent alternative means of determining presence/absence is to take a water sample for eDNA testing between mid-April and mid-June. If great crested newt presence is confirmed then a population estimate by conventional survey (6 visits in the correct time period) will still be required. The ecologist should make recommendations as to whether a European Protected Species Licence with respect to great crested newts would be necessary and the need for a mitigation scheme and/or precautionary method statement.

The great crested newt survey should be carried out by an experienced, licensed ecologist in line with the Great Crested Newt Mitigation Guidelines by Natural England (2001) and should be submitted with any necessary mitigation scheme and method statement to the Local Planning Authority in support of the planning application.

1 October 2020 - comment.

Following receipt of an Ecological Impact Assessment, (conducted by Wildlife Surveyor, Susan Worsfold BSc ACIEEM and completed 20 September 2020), conditions and informative comments are recommended.

#### 4.1.2 Shropshire Council Affordable Housing - support.

The Council's Affordable Housing team confirm that the applicants have demonstrated strong local connections to the Wistanstow Parish Council local administrative area.

After considering the couples housing needs and personal circumstances, it is confirmed that the requirements of the Supplementary Planning Document, (SPD) in relation to the build your own affordable home scheme have been satisfied.

The Local Housing Need elements of this application were established as follows from information presented to the Housing Enabling and Implementation Team in April 2020.

Mr and Mrs Jones are currently living in tied accommodation, which is deemed unsuitable for the couple and their children's long-term housing needs.

In a letter dated 22nd February 2020, Wistanstow Parish Council confirmed the couple had a local connection to Wistanstow for affordable housing purposes.

The couple have strong connections to the parish and receive support from Mrs Jones parents who live locally. Mrs Jones works at Wistanstow Primary School, where she is a keyholder and opens the school up in the morning. This is alongside her employment as a healthcare assistant for the NHS. Mr Jones works at a local poultry farm and has a pager alarm for when he is not at work, to respond quickly to ensure animal welfare.

From information provided, Mr and Mrs Jones are unable to purchase a suitable property in the immediate area due to availability and cost. This is due to a lack of lower cost, smaller affordable properties available locally. Therefore, Mr and Mrs Jones have demonstrated housing need, strong local connections and a need to live in the local area. Moreover, due to issues of affordability and availability they are unable to meet their own housing need within the parish without assistance from this policy.

#### 4.1.3 Shropshire Council Drainage - comment.

A condition is recommended, which states that no development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

1. 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 not be feasible, drainage calculations should limit the discharge rate from the site, equivalent to 5.0 l/s runoff rate, which should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any others in the vicinity.

2. 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 run-off from the new access runs onto the highway.

3. Full details, plan and sizing of the proposed package sewage treatment plant should be submitted for approval, including a completed Foul Drainage Assessment Form (FDA1 Form). British Water Flows and Loads: 4 should be used to determine the loading for the package sewage treatment plant and the sizing of the package sewage treatment plant should be designed to cater for the correct number of persons and in accordance with Building Regulations H2. These documents should also be used if other forms of treatment on site are proposed. Consent or an exemption certificate is required, as appropriate, from the Environment Agency for discharging treated foul effluent into the watercourse. However, if the ditch/ watercourse is occasionally dry, the treated foul effluent must discharge into a drainage field.

#### 4.1.4 Shropshire Council Highways - comment.

The development is likely to be acceptable from a transport and highways perspective. The parking and turning is sufficient, the access apron is suitable and the gates appear to be set back at least 5 metres from the highway. 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:  
Visibility splays commensurate with the actual free-flow speed passing the site should be submitted, on a plan. The planting within the red line boundary to the north seems to be set back which is ideal; however there is no detail to the south, presumably outside the control of the applicant.

The gates look to be set back 5 metres, although this could be confirmed on the site plan.

#### 4.1.5 Shropshire Hills AONB - comment.

The Shropshire Hills AONB Partnership is a non-statutory consultee and does not have a role to study the detail of all planning applications affecting the AONB.

With or without advice from the AONB Partnership, the planning authority has a legal duty to take into account the purposes of the AONB designation in making this decision, and should take account of planning policies which protect the AONB, and the statutory AONB Management Plan.

Our standard response here does not indicate either an objection or no objection to the current application. The AONB Partnership in selected cases may make a further detailed response and take a considered position.

#### 4.1.6 Wistanstow Parish Council - support.

The Parish Council considered this affordable application under the document "Shropshire Local Development Framework, Type and Affordability of Housing, Supplementary Planning Development adopted 12th September 2012 under the section 'Affordable Housing for Local People - exception sites'.

The Parish Council agreed to support the application for the development of one affordable dwelling only on land at Lower Lane Wistanstow with this being an "exception site" and with the applicants meeting the Local Affordable Criteria.

## 4.2 Public Comments

### 4.2.1 This application was advertised via notice at the site.

### 4.2.2 Fourteen separate households provide support. Their comments are summarised as follows:

- Applicants are a supportive neighbour and valued member of the community. Their time is given freely to village events and activities.
- They are an asset to the community and are beneficial to the economy of the village.
- Mrs Jones works at the local school, Mr Jones works locally as a rural farm worker and the couple were married in the locality, with Mrs Jones family living locally. Their children also attend the local school. It would be detrimental for them to move out of the area where they have grown up.
- Necessity to live close to work.

- Young families such as these are being priced out of the market and the existing affordable housing is limited. More support for local families is required.
- Council restrictions prevent village vitality.
- The scheme would provide the family with a stable future in the village for the long term.

4.2.3 Four separate households object. Their comments are summarised below:

- Site is quite a distance out of the village.
- A better alternative could have been put forward, also lessening the cost of connecting services.
- Flooding -  
Land is prone to flooding, where the land is the lowest point from the road. Water deposits debris over the field and if current field drains were restricted by footings, flooding could be made worse.  
Site understood to be former sewage beds for former council houses. Clean water from nearby houses continues to filter to the site via original drains.  
Application form is incorrect - a watercourse runs through the whole length of this field.
- The field is currently leased for grazing, although no notice has been served on the tenant.
- We believe the site was subject to the burial of cattle during the 1960's through Tuberculosis (TB).

5.0 **THE MAIN ISSUES**

Principle of development  
Scale, layout, design and visual impact  
Residential amenity  
Ecology  
Access and highway safety  
Drainage  
Other matters

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

- 6.1.1 A key objective of both national and local planning policy is to concentrate residential development in locations which promote economic, social and environmental sustainability. Specifically, the Council's Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 state that new open market housing will only be permitted on sites within market towns, other 'key centres' and certain

named villages ('Community Hubs and Clusters'), as identified in the Site Allocations and Management of Development (SAMDev) Plan. Isolated or sporadic development in open countryside, (i.e. outside the named settlements) is generally regarded as unacceptable unless there are exceptional circumstances.

- 6.1.2 One of the exceptions referred to under Core Strategy Policy CS5 and SAMDev Policy MD7a is where named individuals with strong local connections and who demonstrate they are in housing need wish to build their own 'affordable' home. Detailed guidance on this initiative, including a definition of the terms 'strong local connections' and 'housing need', can be found in the Supplementary Planning Document (SPD). This is made reference to by the Affordable Housing team who, in this case is satisfied that these two aspects of the policy are met. If planning permission were to be granted it would be subject to prior completion of a legal agreement to control both initial and future occupancy of the house, and to cap its resale value.
- 6.1.3 In terms of the issue of location, even affordable homes on rural exception sites are required, by the SPD, to be within or adjoining "recognisable named settlements". Isolated or sporadic development in open countryside, or which would otherwise adversely affect the landscape or an area's local distinctiveness or historic character would be unacceptable. The SPD explains that all settlements comprise of a group of houses occupied by households from different families, with the group becoming a settlement on account of the number houses and their proximity. Its limits are defined by where the relationship between the different properties peters out, and hence a site divorced slightly from a dispersed or loose-knit settlement might be considered to adjoin it, whereas one a similar distance from a tightly clustered or nucleated settlement would not.
- 6.1.4 Although the village of Wistanstow is clearly a settlement, this site cannot be regarded as adjoining the village, which is separated from the site both physically and visually, by open fields and mature planting. The roads leading through and from Wistanstow are also defined by a 30mph speed limit and whilst the speed limit area extends onto Lower Lane, it falls short of the site by approximately 65 metres. This in itself would not be sufficient to consider that the site is wholly outside of the settlement, however when coupled with other factors, such as the physical isolation from the village and from Leamoor Common, to the north; the largely undeveloped countryside surroundings and the solitary position of the site, the proposed dwelling would have little cohesion with the nearest settlement.
- 6.1.5 For these reasons officers consider that the site does not form part of a settlement, instead being in open countryside with only very sparse built development provided along this stretch of Lower Lane. It is felt that a new



dwelling in this deeply rural and particularly attractive landscape would inevitably erode the character of the area, which is within the Area of Outstanding Natural Beauty.

## 6.2 **Scale, layout, design and visual impact**

6.2.1 The site area accords with the 0.1 hectare limit imposed by the Affordable Housing SPD, whilst the dwelling's gross internal floor space would not exceed the 100m<sup>2</sup> threshold.

6.2.2 In terms of design, the appearance of the property would be satisfactory, given its low height, relatively simple form and choice of traditional materials. It would also be set back from the nearby road and much of the roadside and boundary hedge could be retained, which would limit the visual impact on the street scene. However, the site is particularly isolated from the nearest settlement and despite the house being sited discreetly, development in the chosen location would still erode the rural character of this part of the AONB and would be contrary to the aims and objectives of the AONB designation. In addition, the visual harm introduced would not be offset by the social benefits of the scheme, which are modest by comparison.

## 6.3 **Residential amenity**

6.3.1 There are no neighbouring dwellings in close proximity to the site and so there would be no resultant residential amenity concerns.

## 6.4 **Ecology**

6.4.1 Ditches were identified within an influencing distance of the site, although there are no rivers, ponds or woodland within 500 metres. The presence of Great Crested Newt (GCN) were considered unlikely, although reasonable avoidance measures should be taken to avoid an offence being committed. Also, no roosting or nesting birds were found, although it is recommended that the installation of roosting and nesting opportunities for bats and birds would enhance the site, whilst external lighting measures and compensatory planting is also provided to mitigate for commuting or foraging bats. Conditions in this regard are therefore recommended to be attached to any approval decision, along with informative comments relating to general wildlife protection during the construction phases of development.

## 6.5 **Access and highway safety**

6.5.1 The provided site plan clarifies the position of the proposed vehicular access, and it is considered that its layout, (including visibility splays), would be suitable in this case, although its final construction could be secured by

condition in an approval scenario. Whilst the narrowness of the adjacent rural road is acknowledged, it is an unclassified route which is lightly trafficked and the Highways Development Control team have raised no concerns about its capacity to accommodate the traffic likely to be generated by one additional household. Also, the adjacent section of road is quite straight, further minimising highway safety risk; there is an existing access to the field and the entrance gates would be set back from the roadside edge, allowing vehicles to park safely off the road when accessing and egressing the property. Additional visibility splays would also lead to the removal of additional hedgerow which would be considered unfavourable in landscaping terms.

## 6.6 **Drainage**

6.6.1 There is a known moderate to high risk of groundwater flooding in the area, although this does not refer to the area of the site proposed to be built on and the site is entirely outside of Flood Zones 2 and 3, as designated by the Environment Agency. The applicant's representative has suggested that flooding would be alleviated by suitable drainage measures across the site and the Council's Drainage team have confirmed this could be conditioned in the event that planning permission were to be approved.

## 6.7 **Other matters**

6.7.1 An objector refers to the land being currently leased to them as the tenant, although no notice has been served on them by the applicant's / their representative. This has now been brought to the attention of the applicant's agent, whereby no formal decision can be made by the Local Authority until the expiry of a 21 day statutory notice period from the date that the notice is served.

6.7.2 Additional public comments refer to the land as being a former burial site for Bovine TB positive cattle. As such, the Council's Animal Health and Public Protection Officer's were asked to comment and they have confirmed that whilst they hold no records of 1960's burial sites, from a human health perspective, any contamination risk would be low, although there may be a potential issue in terms of structural integrity, which would be addressed at the building regulations stage of development. Strict rules must be adhered to if a burial site is found and the Department for Environment, Food and Rural Affairs, (DEFRA) may need to be contacted if the scheme were to progress.

## 7.0 **CONCLUSION**

The applicants have been found to fulfil the local connections and housing need criteria for an affordable home. However, the scheme is contrary to the relevant planning policies because the site is in open countryside, with only sporadic housing existing outside of any cohesive settlement. Consequently,

the development would detract from the character and visual amenity of the Shropshire Hills AONB. For this reason, it is recommended that planning permission is refused, subject to the 21 day expiry of a statutory notice being served on the current tenant.

## 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

Shropshire Core Strategy and SAMDev Plan Policies:

CS1 - Strategic Approach  
 CS5 - Countryside and Greenbelt  
 CS6 - Sustainable Design and Development Principles  
 CS7 - Communications and Transport  
 CS11 - Type and Affordability of housing  
 CS17 - Environmental Networks  
 MD1 - Scale and Distribution of Development  
 MD2 - Sustainable Design  
 MD3 - Managing Housing Development  
 MD7A - Managing Housing Development in the Countryside  
 MD12 - Natural Environment

SPD Type and Affordability of Housing

### RELEVANT PLANNING HISTORY:

None.

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=QFDJHSTDGU200>

List of Background Papers
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member  Cllr. Lee Chapman Cllr David Evans
Appendices APPENDIX 1

**Informatives**

1. Despite the Council wanting to work with the applicant in a positive and proactive manner as required in the National Planning Policy Framework paragraph 38, the proposed development is contrary to adopted policies as set out in the officer report and referred to in the reasons for refusal, and it has not been possible to reach an agreed solution.

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Committee and date

Southern Planning Committee

17 November 2020

## SCHEDULE OF APPEALS AS AT COMMITTEE 17 NOVEMBER 2020

<b>LPA reference</b>	19/00860/VRA106
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Tristan Ralph
<b>Proposal</b>	Variation of Section 106 for planning application number 13/01696/FUL
<b>Location</b>	The Old Chapel, Stretton Westwood, Much Wenlock Shropshire, TF13 6DF
<b>Date of appeal</b>	19/08/2020
<b>Appeal method</b>	Written representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	14/10/2020
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	18/03355/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Longville Arms Limited
<b>Proposal</b>	Change of use of former public house to residential (resubmission of 17/01687/FUL)
<b>Location</b>	Longville Arms, Longville In the Dale, Much Wenlock Shropshire TF13 6DT
<b>Date of appeal</b>	25.08.2020
<b>Appeal method</b>	Written representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	16.10.20
<b>Costs awarded</b>	
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	19/04826/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr John Williams
<b>Proposal</b>	Erection of two split level dwellings
<b>Location</b>	Proposed Residential Development Land South Of The Hawthorns, Orchard Lane, Hanwood, Shrewsbury, Shropshire
<b>Date of appeal</b>	25.08.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	16.10.20
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	17/04421/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mr Wiggin
<b>Proposal</b>	Erection of two detached dwellings with detached open fronted double garages
<b>Location</b>	Land East Of The School House, Hopton Cangeford Shropshire
<b>Date of appeal</b>	20.02.20
<b>Appeal method</b>	Written representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	23.10.20
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	20/02036/PMBPA
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Gaskell
<b>Proposal</b>	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
<b>Location</b>	Proposed Barn Conversion East Of Terrace Farm Cruckton Shrewsbury Shropshire
<b>Date of appeal</b>	26.10.20
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	



<b>LPA reference</b>	20/01847/FUL
<b>Appeal against</b>	Conditions
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mr B Gardiner
<b>Proposal</b>	Erection of replacement dwelling and alterations, including erection of detached annex and construction of garden bridge.
<b>Location</b>	Crimond 85 Ludlow Road Church Stretton SY6 6RA
<b>Date of appeal</b>	26.10.20
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	19/03289/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Messrs Trough
<b>Proposal</b>	Outline application (access, layout for consideration) for the erection of four dwellings with garages
<b>Location</b>	Proposed Development Land East Of The Old School, Caynham, Shropshire
<b>Date of appeal</b>	27.10.20
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	18/05388/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Mr Sandells
<b>Proposal</b>	Erection of a free range egg production unit for 16,000 birds including silos and all associated works (re-submission).
<b>Location</b>	Proposed Poultry Unit North of Cruckmeole Farm Cruckmeole Shrewsbury
<b>Date of appeal</b>	03.06.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	22.09.2020
<b>Date of appeal decision</b>	13.10.2020
<b>Costs awarded</b>	<b>COSTS REFUSED</b>
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	19/03412/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Richard Jones
<b>Proposal</b>	Outline application for the erection of 1No self-build dwelling with ancillary garage and workshop (all matters reserved)(Amended Description)
<b>Location</b>	Proposed Development Land South West Of Pontesford, Shrewsbury, Shropshire
<b>Date of appeal</b>	02.09.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	02.11.2020
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed



# Appeal Decision

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14<sup>th</sup> October 2020

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**Appeal Ref: APP/L3245/Q/20/3253112**

**The Old Chapel, Stretton Westwood, Much Wenlock, Shropshire TF13 6DF**

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge/modify a planning obligation.
  - The appeal is made by Tristan Ralph and Dru Jagger against the decision of Shropshire Council.
  - The development to which the planning obligation relates is the erection of a timber framed two storey extension and refurbishment of existing chapel to create a dwelling.
  - The planning obligation, dated 7 February 2014, was made between Tristan Ralph and Dru Jagger and Shropshire Council.
  - The application Ref 19/00860, dated 19 February 2019, was refused by notice dated 11 December 2019.
  - The application sought to have the planning obligation discharged.
- 

## Decision

1. The appeal is dismissed.

## Background and Main Issue

2. The planning obligation requires the payment of £11,700 as an Affordable Housing Contribution (AHC) to facilitate the delivery of affordable and/or supported housing elsewhere in the Council's administrative area payable within two years of the commencement of a material operation of the development in accordance with section 56(4) of the Act or within 9 days of practical completion of the development, whichever date shall occur first.
3. An application form was not completed as part of the submission to the Council. Instead, the application was made by way of email. I have considered the email correspondence and I agree with the Council that the application was submitted on the basis of discharging the obligation. There is some email communication between the appellant and the Council in respect of what appears to be the acceptability of reducing the AHC from £11,700 to £9,300 on the basis that "*the scheme is part conversion and had recognised different VAT regimes*". However, the applicant has not submitted the application on the basis of modifying the planning obligation in this way.
4. The main issue is therefore whether the planning obligation in relation to the AHC continues to serve a useful purpose, and hence whether it can be discharged.

## **Reasons**

5. As part of the determination of this appeal, I afforded the main parties the opportunity to comment on the judgement of The High Court in *R (Mansfield District Council) v Secretary of State for Housing, Communities and Local Government* [2018] EWHC 1794 (Admin). In particular, the Court confirmed that the proper test to be considered when deciding an application under s106A(1)(b) involves the following four questions: what is the current obligation?; what purpose does it fulfil (i.e. planning or non-planning purpose)?; is it a useful purpose? and if so; would the obligation serve that purpose equally well if it had effect subject to the proposed modification (if applicable)?
6. The AHC is in place to fulfil a planning purpose. There is no evidence to indicate that there is no longer an affordable housing need in the area. Indeed, the evidence indicates that the development plan for the area requires the provision of additional affordable homes in the area. Consequently, the planning obligation fulfils a useful purpose. If the planning obligation was discharged it would no longer fulfil this useful purpose. Whilst national planning policy may have changed since the planning application was determined, this is not a determinative factor in respect of this kind of appeal.

## **Other Matter**

7. Whilst it would appear that the Council may support a reduction in the AHC, as outlined in email correspondence, that is a matter that would need to be addressed separately between the main parties. A financial contribution of £11,700, as required in the completed planning obligation, serves a useful purpose, i.e. to make provision for affordable/supported housing.

## **Conclusion**

8. I conclude that the planning obligation would not serve a useful purpose equally well if it were discharged as that would lead to less affordable housing in the administrative area. I therefore dismiss the appeal.

*D Hartley*

INSPECTOR



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## Appeal Decision

Site visit made on 5 October 2020

by **John Wilde CEng MICE**

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

Decision date: 16 October 2020

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**Appeal Ref: APP/L3245/W/20/3256872**

**Longville Arms, Longville in the Dale, Much Wenlock, Shropshire TF13 6DT**

- 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 Longville Arms Limited against the decision of Shropshire Council.
  - The application Ref 18/03355/FUL, dated 17 July 2018, was refused by notice dated 13 February 2020.
  - The development proposed is the change of use of former public house to residential.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the change of use of former public house to residential at Longville Arms, Longville in the Dale, Much Wenlock, Shropshire TF13 6DT in accordance with the terms of the application, Ref 18/03355/FUL, dated 17 July 2018, subject to the conditions contained within the attached schedule.

### Main Issue

2. The effect of the proposed development on the social and economic vitality and quality of life of the local community.

### Reasons

3. The appeal property is a three storey public house located on the B4371 between the towns of Much Wenlock and Church Stretton. The property has three main bar areas on the ground floor, the larger of these being considered to be the function room. There is parking available to the front and one side of the building.
4. The pub is the only community facility within the village and consequently its loss would have a negative impact upon the quality of life, particularly in the social sense, on the community. I have anecdotal evidence that the pub has in the past been the meeting point for a range of clubs including Young Farmers and the parish council. It has also been used by tourists, both passing through and staying in the area. It follows that there has to be strong evidence in favour of allowing the appeal.
5. The village of Longville in the Dale is small; the Market Demand Report (2018) (MDR) prepared by Lowe Chartered Surveyors on behalf of the appellant estimates there to be about 50 dwellings in the vicinity, although from my visit it would seem that far fewer than this number would be within a safe walkable distance. It seems therefore that it is very unlikely that the pub could be viable

- based purely on the nearby community, and would need to become a 'destination' pub to be viable.
6. The appellant has been the owner of the pub since 2012. Prior to this it seems to have had a chequered history, although no accounts are available from this time. Since 2012 the MDR indicates that the business made a loss every year until 2017 when it was closed. The minimum loss during this period was £8,391 in 2013/14 and the maximum loss was £30,841 in 2016/17. During this period the appellant also spent in the region of £70,000 in refurbishing the property.
  7. The evidence before me as to the current condition of the building is somewhat ambiguous. The Appellant's planning application statement indicates that additional works to the value of £70000 are required, whilst the MDR concludes that there is no evidence of significant repair that would prevent the property from being used as a public house. However, from my site visit it is apparent that some money would be needed to be spent before the pub could be re-opened as a going concern.
  8. The pub has been up for sale since December 2015 at a price of £395000 and no offers have been forthcoming. However, no independent valuation has been submitted and the asking price has not been varied during the entire period that it has been up for sale. This does give me cause for concern, and I will return to this point later.
  9. I note that there are several pubs within relatively close proximity including the Wenlock Edge and the Plough Inn at Wall under Heywood. Both of these other pubs are on the B4371, the former being about 2.5 miles away to the east and currently closed (but with planning permission for improvement works) and the latter about 2 miles to the west. This latter pub has also been the subject of a marketing exercise, with the price being lowered from £425000 to £29500 during the marketing period, although no sale took place.
  10. The evidence before me indicates that this pub was closed in early 2020, and whilst closed on the day on my site visit, it appeared to be generally open at the present time. There is also a functioning pub at Cardington about 2.5 miles to the north-west. The Plume of Feathers on the A458 is about 8 miles away, and although recently closed, appeared open when I visited the area.
  11. The appeal property was also designated as an Asset of Community Value, although the local community did not register their intention to bid for the property in the time set aside for such bids. It has been suggested that the pub has not been operated on a suitable and sustainable model during the recent past. Conversely, the appellants' point to various models that were trialled from top end destination pub to a more basic approach. It has also been inferred, anecdotally, that the pub did not exude a welcoming ambiance over the last few years. However, I can give only limited weight to such evidence.
  12. There are a number of factors therefore that lead towards the conclusion that the pub is no longer viable. These include that it could not rely on the local community in terms of numbers to make it economic to run; it would therefore need to be a destination pub. There are two other pubs within two to three miles either way on the same road as well as another one less than three miles to the north-west. Given their proximity and the relatively sparse population, I am not persuaded that all of these pubs could run at a profit, although I acknowledge that the Wenlock Edge pub is closed at present.

13. The appeal pub lost money for four consecutive years. Whilst detailed accounts have not been provided for these years, I have been given no substantial evidence to show that the headline figures given are in any way inaccurate or skewed.
14. Against this is the fact that the price of the pub was not lowered during its marketing exercise and no independent valuation has been submitted. However, the Plough Inn, which is only just over two miles away, was greatly reduced during its period for sale to a price well below that at which the appeal pub has been marketed. Despite this, no sale was achieved. This indicates to me that lowering the price of the appeal pub would not necessarily lead to its successful sale. I am also conscious that all three pubs on the B4371 have struggled in the recent past as has the Plume of Feathers.
15. To my mind therefore, taking into account my above reasoning, I consider that it has been adequately demonstrated that, on the balance of probability, the appeal pub is no longer a viable enterprise.
16. Policies CS15, CS8 and CS5 of the Shropshire Local Development Framework (LDF) all seek, to varying degrees, to support the protection of existing day to day services and facilities within villages. There would therefore be conflict with these policies. There would also be conflict with paragraphs 83 and 92 of the National Planning Policy Framework. However, given my deliberations above, in this particular case there are material considerations that outweigh these conflicts.

*Other matters*

17. I note that the use of the existing cottages to the side of the appeal pub (Coach House Cottage and the Old Coach House) are currently the subject of separate appeals. The cottages are shown as within the appeal site pertaining to this decision and I wish to make clear that this decision for a change of use relates solely to the main pub building contained within the site.

*Conditions*

18. I have imposed the standard time condition and in the interest of certainty also imposed conditions relating to the approved plans and to the nature of the application. In the interest of highway safety, I have imposed a condition requiring that the car parking and site access are constructed as per the drawings and retained thereafter. The Council also requested that a condition relating to ground contamination be imposed due to the potential presence of petrol tanks. However, as the application relates to a change of use, and given that the building has been used as a pub, and already has owners' accommodation within it, I consider this suggested condition to be unnecessary.

**Conclusion**

19. In light of the above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*John Wilde*

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: (1) Location plan, (2) site layout.
- 3) Prior to the occupation of the development the car parking and access onto the public highway shall be constructed in accordance with the unnumbered site layout (dated February 2018), and thereafter maintained.
- 4) This permission is granted only for a single residential unit and the property shall only be occupied as such.





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## Appeal Decision

Site visit made on 6 October 2020

by **John Wilde CEng MICE**

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

Decision date: 16 October 2020

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**Appeal Ref: APP/L3245/W/20/3257254**

**The Hawthorns, Orchard Lane, Hanwood, Shrewsbury, Shropshire SY5 8LE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr John Williams against the decision of Shropshire Council.
  - The application Ref 19/04826/FUL, dated 30 October 2019, was refused by notice dated 12 February 2020.
  - The development proposed is the erection of two split level dwellings.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. Whether or not the proposed development would be in an appropriate location with respect to local and national planning policy.

### Reasons

3. The proposed dwellings would be erected to the south of the property known as The Hawthorns, but within the garden and curtilage of that property. The garden area to the south of the Hawthorns is undulating, rising to the south, west and east. The boundaries consist of hedges with mature trees and there are open fields to the south and east and a wooded copse to the west. Therefore, notwithstanding the summer house and various ancillary buildings, the garden area has a relatively soft and rural aspect that tends to merge into the countryside beyond.
4. The development boundary for Hanwood passes close to the southern elevation of the existing property, and therefore the proposed dwellings would, in planning terms, be within the open countryside. Policy MD7a of the Shropshire Council Site Allocations and Management Development Plan (SAMDev) makes clear that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. Hanwood is classified as a Community Cluster along with Hanwood Bank. As the proposed dwellings would be outside of the development boundary for Hanwood, they would be in conflict with policy MD7a.
5. Policy CS5 of the adopted Core Strategy makes clear that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits. The policy

then outlines particular types of development that would accord with these aims. Open market housing is not listed as one of these particular types of development. Furthermore, the proposed development would not in my view enhance the character of the countryside. It would bring some small economic benefit, although this would be no different or greater than housing built within the development boundary.

6. In terms of community benefits the appellant has indicated that improvements could be undertaken to the junction at the bottom of Orchard Lane with Weir Road, and to this effect a plan has been submitted. However, I have no mechanism before me which would result in this improvement being undertaken, and whilst a condition has been suggested, the Planning Practice Guidance (PPG) makes clear<sup>1</sup> that planning conditions must be necessary to make a development acceptable. As I have been given no evidence to show that highway safety would be unacceptably compromised by the proposed development, this would not be the case. It follows that conflict with policy CS5 would exist.
7. I note that the Council are currently undertaking a Local Plan Review which could result in a change of status of Hanwood and an increase in the housing required up to 2036. However, this plan is at a very early stage and can be attributed only very limited weight. Similarly, whilst the site was identified as a Long Term Potential SLAA residential site in 2018, this document does not form part of the development plan and consequently holds little weight. Furthermore, I note that the Community Cluster has a housing target of 30 dwellings up to 2026 and that as of March 2018 there had been 25 completions and a further 52 planning permissions. It cannot be concluded therefore that there is an urgent need for housing within the Community Cluster.
8. My attention has been drawn to several appeal decisions where Inspectors have allowed residential development outside of development boundaries even when the LPA can demonstrate a five year supply of housing sites. Whilst all decisions should be made based on the facts of the individual case, I would make the further specific comments.
9. In the Norton-in-Hales appeal the Inspector opined that even if a five year supply of housing exists then further development should not necessarily be prevented providing that it is suitably located. In the case before me the proposal would extend built form into the open countryside in a very rural setting. I cannot therefore conclude that it would be suitably located. Furthermore, that appeal was six years ago and had to take into account a recently permitted development within the same village.
10. In the Pulborough appeal (which was in a different area under a completely different development plan) the Inspector found that the part of the site in contention, whilst outside of the development boundary, *does not possess the particular rural character or undeveloped nature which can generally be expected of the countryside*. This is not the case in the present appeal. I therefore cannot take these previous decisions to be compelling precedents for allowing the present appeal.

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<sup>1</sup> Paragraph: 003 Reference ID: 21a-003-20190723

### **Conclusion**

11. The proposed development would conflict with the development plan in respect of its spatial strategy and result in housing within the open countryside. I acknowledge that the National Planning Policy Framework seeks to boost significantly the supply of housing. However, it also puts stress on the primacy of the plan led system and sustainable development.
12. Whilst the proposed development would provide limited social and economic benefits in a relatively accessible location, overall, the material considerations put forward, as discussed above, do not outweigh the conflict with policy. Therefore, having regard to all other matters raised, I conclude that the appeal should be dismissed.

*John Wilde*

INSPECTOR

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## Appeal Decision

Site visit made on 6 October 2020

by **John Wilde CEng MICE**

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

Decision date: 23 October 2020

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**Appeal Ref: APP/L3245/W/20/3244695**

**Site to the east of the School House, Furlong Cottage Junction to Hopton Cangeford Junction**

- 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 Wiggin against the decision of Shropshire Council.
  - The application Ref 17/04421/FUL, dated 13 September 2017, was refused by notice dated 19 December 2019.
  - The development proposed is the erection of two dwellings.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are whether or not the proposed development would be in accordance with the development plan in respect of spatial strategy and also the effect of the proposed development on the character and appearance of the area.

### Reasons

3. The appeal site is part of a slightly undulating field in the rural hamlet of Hopton Cangeford, within the Shropshire Hills area of outstanding natural beauty (AONB).
4. In development plan terms Hopton Cangeford forms part of a Community Cluster along with Stoke St Milborough, Cleestanton and Cleedownton. Policy S7.2(iii) of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) is specific to this cluster. It makes clear that new housing in the cluster is allowable in the form of infilling and conversions on small scale sites to meet local demand for housing, with an expectation to deliver ten additional dwellings in the period up to 2026. It also requires that new development is sympathetic to the character and setting of the settlements.
5. The site is exceedingly rural in nature. To the west, across a minor lane, is a property known as the Old School House. However, the areas to the east and south of the site form part of the same field, whilst to the north is a further field beyond a belt of mature vegetation. There are existing buildings (the old vicarage, now known as The Gables, and the Old Church) some way to the south-east, but these can barely be seen beyond another very mature belt of

vegetation. I acknowledge the presence of dwellings further to the south, beyond the public highway, but these are a considerable distance away.

6. To my mind, taking into account the above, the proposed development cannot, under any reasonable definition, be classified as infill. I accept that Hopton Cangeford is so sparsely developed that to find a site that could reasonably be classified as such is difficult. Conversely however, to accept too liberal a definition would be likely to be prejudicial to the outcome of future decision making, and I am obliged to assess the proposal against the adopted plan as it is written.
7. The proposed development would therefore be seen as encroachment into what I have already deemed to be a very rural landscape that is part of the AONB. Consequently, there would be conflict with policy S7.2(iii). I acknowledge that at one time there was a property (possibly a former vicarage) within the appeal site. However, this has long since disappeared and is barely discernible above ground level.
8. Policy S7.2(iii) also requires that any proposed housing should meet local demand. The appellant notes that there was strong support from the residents of Hopton Cangeford for a small number of open market houses in a Parish Plan questionnaire. However, such a contention falls a long way short of proving a local need for two four bedroom houses that would justify putting aside the identified conflict with policy. I also note that, within the Community Cluster, there have been two housing completions and that there are a further ten sites with planning permission. I accept that these haven't as yet been built out, and are not within Hopton Cangeford itself, but nonetheless their existence would seem to indicate that the current policy is working and providing the necessary housing within the Community Cluster as a whole.

### **Conclusion**

9. Whilst the proposed development would provide limited social and economic benefits, these do not outweigh the conflict with policy and intrusion into the AONB that I have identified. Therefore, having regard to all other matters raised, I conclude that the appeal should be dismissed.

*John Wilde*

INSPECTOR



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## Appeal Decision

Site visit made on 22 September 2020

by **Darren Hendley BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13<sup>th</sup> October 2020

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**Appeal Ref: APP/L3245/W/20/3253658**

**Cruckmeole Farm, B4386 Junction Cruckton to A488 Cruckmeole, Cruckton, Shrewsbury, Shropshire SY5 8JN**

- 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 Sandells, K J Sandells against the decision of Shropshire Council.
  - The application Ref: 18/05388/FUL, dated 13 November 2018, was refused by notice dated 4 December 2019.
  - The development proposed is the erection of a free range egg production unit including silos and all associated works.
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### Decision

1. The appeal is dismissed.

### Applications for costs

2. Applications for costs were made by both main parties during the course of the appeal against one another. These applications are the subject of separate Decisions.

### Main Issues

3. The main issues are the effect of the proposal on (i) biodiversity interests, in particular The Stiperstones and The Hollies Special Area of Conservation (SAC); (ii) the living conditions of the occupiers of the nearby residential properties by way of noise and odour; and (iii) the character and appearance of the area.

### Reasons

#### *Special Area of Conservation*

4. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) transpose the Habitats Directive and the Birds Directive into law. The aim of the Directives is to conserve key habitats and species. Sites designated under the Habitats Regulations include Special Areas of Conservation.
5. The SAC lies within 10 kilometres of the site. The qualifying habitats for the SAC are European dry heaths and Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles. The site lies within the impact risk zone of the SAC and, therefore, has the potential to affect its interest features. In particular, this concerns airborne ammonia from the proposed poultry house

- and the ranging area because ammonia would be emitted from the birds' droppings. Accordingly, there would be a pathway to affect the designated features of the SAC with the potential for increase of ammonia and nitrogen deposition.
6. I am, therefore, required under the Habitats Regulations to consider whether significant effects are likely as the competent authority. Part of this consideration is whether the appellant has provided such information that may be reasonably required for the purposes of assessment or to enable it to be determined whether an appropriate assessment is required.
  7. The appellant submitted an ammonia report with the planning application submission. The report details the critical load and level which is used to assess the harmful effects from ammonia on sensitive habitats. The relevant threshold for the SAC is  $1.0 \mu\text{g}/\text{m}^3$ . A 1% criterion is then used to determine whether or not an effect would be significant. Below this level the effect is not deemed significant and above it would be deemed potentially significant. Whilst it is not in dispute that the proposal as a stand-alone project would increase the level to the SAC, the criterion would not be exceeded according to the ammonia report.
  8. The Council has, though, pointed out that the SAC is already exceeding its critical load. As a consequence, the proposal would add further to this harmful effect on the SAC. The Council has referred to the Dutch Nitrogen judgment<sup>1</sup>, which considered that when a site is currently exceeding its environmental benchmarks, such as the SAC, that the extent to which new proposals might be authorised will necessarily be limited.
  9. The appellant considers that existing guidance should be followed, with regard to that produced by the Environment Agency (EA), and that the Dutch Nitrogen judgment should be used to inform that guidance, rather than an individual planning application. However, as a ruling of the Court of Justice of the European Union, it carries significant weight in my decision. The relevant EA guidance has not been subsequently amended, based on the extracts that are before me. The same applies in relation to the Council Interim Guidance that I have been referred to.
  10. There are also uncertainties over the information that has been provided and how this may impact on the findings of the ammonia report. In particular, the various appeal documents refer to differing sizes of ranging area and types of hardstanding material that would be utilised, and the land divided into paddocks for the birds to use. Whilst this may be seen as taking an overly cautious approach to matters that could usually be dealt with by way of planning conditions, a precautionary principle applies when assessing whether or not the effect would be likely significant because of the strong level of protection that is afforded to the SAC. Hence, this also applies when scrutinising the evidence that has been submitted. Nor is there a shadow appropriate assessment or similar before me.
  11. In terms of the in-combination assessment, this would amount to 2.02%, based on the most up to date information that the appellant has provided, notwithstanding the concerns that the Council has raised over its accuracy. This would be well above the 1% criterion and limited information pertaining to

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<sup>1</sup> C-293/17 and C-294/17.



- the assessment of the in-combination effect is before me, including why a small increment would not have a significant impact in light of that the SAC is already exceeding its critical load.
12. I acknowledge that the Council's Ecologist stated in the consultation response to the planning application that the proposal would be unlikely to have a significant impact on the SAC's integrity alone or in-combination. This fails, though, to take account of the full implications of the Dutch Nitrogen judgment, which the Council has acknowledged in its appeal submissions.
  13. The appellant's views on the absence of likely significant effects seem in part predicated on mitigation measures, and I am aware of the Ammonia Mitigation Scheme, as well as the Habitat Mitigation and Enhancement report and plan. The People Over Wind judgment<sup>2</sup> is clear, though, that mitigation measures cannot be taken into account when considering whether there would be likely significant effects. That position has also now been upheld by the High Court<sup>3</sup>. Hence, mitigation measures are also discounted from my consideration at the screening stage.
  14. In taking these considerations together, there is not sufficient information that may be reasonably required to enable me to decide whether an appropriate assessment needs to be carried out. In such circumstances it must be assumed that such an effect on the SAC would be adverse and significant, in applying the Habitats Regulations. Simply put, significant effects cannot be ruled out. In relation to the role of Natural England, it would have been consulted as the statutory nature conservation body if I had carried out an appropriate assessment. However, as I have set out above, there is not sufficient information for this to be done.
  15. The effect on a number of other designated sites has also been raised, including Ramsar sites which are afforded the same level of protection as European sites, Sites of Special Scientific Interest and areas of Ancient Woodland, as well as habitat related matters on and close to the site. As I have found against the proposal in relation to the SAC, I do not have cause to consider the effects on these other designations further.
  16. I conclude that the proposal would have an unacceptable effect on biodiversity interests, in particular the SAC. As such, it would not comply in this regard with Policies CS5, CS6 and CS17 of the Council's Shropshire Local Development Framework: Adopted Core Strategy (2011) (Core Strategy) which, amongst other matters, seek to avoid unacceptable adverse environmental impacts, conserve and enhance the natural environment and ensure that development does not adversely affect ecological values and functions.
  17. It would also not comply in this regard with Policies MD2 and MD12 of the Site Allocations and Management of Development Plan (2015) (SAMDev) which concern natural assets, and require a Habitats Regulations Assessment where the Local Planning Authority identifies a likely significant effect on an internationally designated site.
  18. It would also not accord with the National Planning Policy Framework (Framework) where it seeks to protect and enhance biodiversity, and with the Habitats Regulations, for the reasons that I have set out.

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<sup>2</sup> People Over Wind & Peter Sweetman v Coillte Teoranta C-323/17

<sup>3</sup> Gladman Developments Ltd v SSHCLG and Medway Council [2019] EWHC 2001 (Admin)

### *Living Conditions*

19. The nearest residential properties lie to the north of the proposed ranging area at Terrace Farm and The Stables. The proposed building itself would be around 150 metres from these properties, which have their garden and paddock areas closest to the boundary with the site. There are further residential properties to the north-east and north-west, although these would be more distant from the proposed building. A new housing development on the edge of the nearby settlement of Hanwood is separated by further agricultural fields.
20. The appellant's odour assessment states that the levels would be well below the EA's benchmark for what could be considered moderately offensive as regards the closest property at Terrace Farm. As a result, with the distance from the proposed building, the odour would not be to the extent that it would be unacceptable in terms of the day to day activities, even with the prevailing wind direction. The proposed building would also require regular manure removal. Subject to this being carried out in a managed fashion, fugitive emissions would also be likely to be not unacceptable.
21. The proposed arrangements for manure spreading, however, cause more of a concern. Whilst this is by no means an unusual activity in rural areas, it falls to me to consider the effects from the proposal. Some of the spreading areas that are shown in the Manure Management Plan are located in close proximity to not insignificant areas of housing, in particular on the edge of Hanwood. Whilst I am aware that wind direction will be taken account of as regards the closest dwellings, I am not satisfied this is sufficient in terms of protecting the living conditions of the occupiers by way of odour. Mechanisms which display a requisite level of protection are not before me.
22. In relation to noise, the appellant has clarified the number of fans. Their operation would not cause undue disturbance. With regard to noise from heavy goods and delivery vehicles, the location of the proposed building and the access arrangements would be sufficiently distanced from the nearest residential properties. The predicted number of associated traffic movements would be moderate.
23. I conclude that whilst the proposal would not be unacceptable as regards noise, it would have an unacceptable effect on the occupiers of nearby residential properties by way of odour due to manure spreading. Therefore, it would not comply with Policy CS6 of the Core Strategy and with Policies MD2 and MD7b of the SAMDev where they are involved with residential and local amenity matters and no unacceptable adverse environmental impacts. It would also not comply with the Framework where it concerns a high standard of amenity for existing and future users, and the effect of pollution on living conditions.

### *Character and Appearance*

24. The site comprises two fields that are currently separated by a hedgerow. It slopes from north to south towards a ditch which runs along its south boundary. It also contains a number of individual mature trees that give the site somewhat of a parkland character. Further vegetation and trees are found around the site boundaries, apart from with the paddock areas to the north of the site and at a gated access point on the site frontage. Whilst there is built development in its vicinity and the site lies fairly close to Hanwood, the area is

largely countryside in its character. Other settlements in its vicinity are on a more modest scale.

25. Where the proposed building would be sited lies within the Riverside Meadows Landscape Character Type (LCT), under the Shropshire Landscape Typology (2006). It ably demonstrates a number of the LCT's key characteristics, including a pastoral land use, linear belts of trees along watercourses, and hedge and ditch field boundaries. The Principal Settled Farmlands LCT also lies in close proximity.
26. As it is a largely rural landscape, it would not be untypical to see such a building that is related to an agricultural use. Whilst there would be some loss of the pastoral fields and hedgerows, this would not be to the extent that it would render the effect on landscape character unacceptable, especially as further hedgerow planting, re-location and tree planting is proposed.
27. In respect of visual impacts, the proposed building would be located at the lowest point of the site. It would be considerably lower than the residential properties to the north. In other directions, it would be well screened by the trees and hedgerows around the perimeter of the site and beyond. A viewpoint in the appellant's Landscape and Visual Impact Assessment at the site access point would have proven beneficial. However, even with the widened access, the visual impact would be unlikely to be unacceptable with the distance that the proposed building would be set back from the road.
28. The required access improvement would seem to impact on more of the hedgerow along the site frontage than is indicated, as well as a tree. However, with the further planting proposed, this would be adequately mitigated for in visual impact terms. In relation to residential properties at the edge of Hanwood, these are too distant for the scale of the proposed building to have a significant visual impact. Views from the minor road to the north would be largely over the site, and so the visual impact would also not be unacceptable in this direction. The landscaping measures that are proposed within the site would satisfactorily address the limited level of adverse effects.
29. I conclude that the proposal would not have an unacceptable effect on the character and appearance of the area. It would comply in this regard with Policies CS5 and CS17 of the Core Strategy and with Policy MD12 of the SAMDev where they concern matters related to local character, distinctiveness and the local environment. It would also accord with the Framework where it involves development that is sympathetic to local character.

### **Other Matters**

30. The proposal would bring some economic benefits by way of farm diversification into egg production. This would not, though, outweigh the harm to biodiversity interests, in particular the SAC, and to the living conditions of the occupiers of nearby residential properties by way of odour.
31. Interested parties have raised a number of other concerns. As I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion and have therefore not had a significant bearing on my decision

**Conclusion**

32. For the reasons set out above and having regard to all matters that have been raised, the appeal should be dismissed.

*Darren Hendley*

INSPECTOR



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## Costs Decisions

Site visit made on 22 September 2020

by **Darren Hendley BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13<sup>th</sup> October 2020

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### **Application A: Costs application in relation to Appeal Ref:**

**APP/L3245/W/20/3253658**

**Cruckmeole Farm, B4386 Junction Cruckton to A488 Cruckmeole, Cruckton, Shrewsbury, Shropshire SY5 8JN**

- 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 Shropshire Council for a full award of costs against Mr Sandells, K J Sandells.
  - The appeal was against the refusal of planning permission for the erection of a free range egg production unit including silos and all associated works.
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### **Application B: Costs application in relation to Appeal Ref:**

**APP/L3245/W/20/3253658**

**Cruckmeole Farm, B4386 Junction Cruckton to A488 Cruckmeole, Cruckton, Shrewsbury, Shropshire SY5 8JN**

- 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 Sandells, K J Sandells for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for the erection of a free range egg production unit including silos and all associated works.
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## **Decision**

1. Application A for an award of costs is refused and Application B for an award of costs is refused.

## **Reasons**

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

### *Application A*

3. The applicant's (the Council) costs claim is based on substantive grounds that an appellant is at risk of an award of costs being made against them under the PPG if the appeal or ground of appeal had no reasonable prospect of succeeding.
4. The claim principally relates to whether or not adequate information was submitted by the appellant in order for the applicant to complete its

- requirements under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations). The appellant considers that if information was lacking, the applicant should have requested it. In addition, the appellant does not accept that the additional information was necessary in order to allow the applicant to carry out its duties under the Habitats Regulations.
5. The appellant is entitled to take a different stance from the applicant so long as a satisfactory case can be made for a contrary view. This is such an instance, in particular as the appellant provided an Ammonia Report with the application and then, subsequently, an Ammonia Mitigation Scheme. Whilst I disagree with the appellant's view, it is not a position without merit due to the information in relation to ammonia that was submitted.
  6. The applicant has further pointed to guidance in the PPG that states that the aim of the cost regime, in part, is to discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.
  7. Again, this depends on the view taken with regard to the adequacy of the information submitted, a point which I have already addressed above. The appeal itself concerns a revised application and there was clearly dialogue between both main parties during its consideration, as is demonstrated by the various emails that I have been referred to.
  8. The applicant has also referred to a lack of information pertaining to the ecological effects on an adjacent watercourse, odour and noise. The appellant has, though, put forward an evidenced case on these planning considerations with regard to the various supporting reports and the clarifications that have been provided. None of these matters amount to unreasonable behaviour.
  9. The applicant has also stated that the claim is made on procedural grounds. However, none of the related types of behaviour under the PPG that may give rise to such an award against an appellant has been demonstrated, as well as on substantive grounds.

#### *Application B*

10. The applicant's (the appellant) claim is based on the grounds that with regards to costs guidance, the Council could have been expected to take a positive approach to the application; to request information that it considered to be lacking and provide a reasonable opportunity for it to be provided; and, to consider said information so that a proper judgement about the impact of the development could be made.
11. The Council's approach to determining the application was based on information it considered was lacking in respect of the requirements of the Habitats Regulations. With the strong level of protection afforded to sites designated under these regulations and the related associated precautionary approach, it is not unreasonable for the Council not to take a positive stance in these circumstances.
12. With regard to requesting further information and providing a reasonable opportunity for it to be provided, the application was refused a short period of time after the Council's Ecologist's response. However, the applicant does not agree that such information is required and so even if the opportunity had been afforded to provide it, it is not evident how this would have changed the

Council's decision and, therefore, avoided an appeal. As a consequence, the Council's actions also are not unreasonable in these respects.

13. The applicant is also of the view that the Council should have considered whether any perceived adverse impacts or concerns could have been dealt with by way of conditions or an agreement under Section 106 of the Town and Country Planning Act 1990 (S106 agreement). Mitigation can, though, only be considered after it has been established whether there would be likely significant effects under the Habitats Regulations. As the Council did not consider it had sufficient information to make such a judgement over the level of effects, it was not in a position to consider the use of conditions or a S106 agreement to address perceived adverse effects. Accordingly, its position was also not unreasonable, in this regard.

### **Conclusion**

14. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in relation to Application A or Application B. An award of costs is not, therefore, justified in relation to either application.

*Darren Hendley*

INSPECTOR

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## Appeal Decision

Site visit made on 26 October 2020

by **David M H Rose BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 November 2020

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**Appeal Ref: APP/L3245/W/20/3257422**

**Land South West of Pontesford, Shrewsbury, Shropshire.**

- 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 Richard Jones against the decision of Shropshire Council.
  - The application reference 19/03412/OUT, dated 28 July 2019, was refused by notice dated 18 February 2020.
  - The development proposed is an outline application for the erection of 1 no. self-build dwelling with ancillary garage and workshop (all matters reserved) (Amended Description).
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I have taken the site address and the description of the proposed development from the Council's decision notice. I note that both have been adopted by the appellant in the grounds of appeal.
3. The application was supported with conceptual drawings which I have considered as illustrative of how the development might take place.

### Main Issue

4. The main issue is whether or not the appeal site is a suitable location for the proposal in light of local and national policies.

### Reasons

5. The development plan, which comprises the Shropshire Council Core Strategy (CS) and the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan, seeks, through CS Policy CS1, to focus new development in Shrewsbury, the Market Towns, Key Centres, Community Hubs and Community Clusters. Outside these settlements, development will primarily be for economic diversification and to meet the needs of the local communities for affordable housing.
6. SAMDev Policy MD1.1 identifies Minsterley and Pontesbury as joint Key Centres where sustainable development will be supported having regard to, amongst other matters, the principles and development guidelines of the relevant settlement policy (S12) and Policy MD3.

7. SAMDev Policy S12.1(2) indicates that new housing development will be delivered through a combination of allocated sites and windfall opportunities on existing brownfield and other infill sites. Policy MD3 confirms that planning permission will be granted for other sustainable housing development having regard to the policies of the Local Plan including CS Policy CS5 and SAMDev Policy MD7a.
8. CS Policy CS5 confirms that new development in the countryside will be strictly controlled. However, like the Framework, it accepts that development proposals on appropriate sites, which maintain and enhance countryside vitality and character, will be permitted where they improve the sustainability of rural communities by bringing local and economic benefits.
9. In turn, SAMDev Policy MD7a, whilst similarly restrictive of new market housing, makes provision for suitably designed and located exception site dwellings where they meet evidenced local housing needs and other policy requirements subject to the protection of long term affordability.
10. Neither the CS nor the SAMDev make express allowance for self-build housing. However, the Council's Type and Affordability of Housing Supplementary Planning Document (SPD) acknowledges the need to look at self-build as a means of extending the range of intermediate affordable housing. In addition, it confirms that the Council will continue to explore ways of supporting self-build, either individual bespoke properties or group projects, as part of achieving mixed and balanced communities.
11. In turn, the National Planning Policy Framework (Framework) reinforces the importance of addressing the needs of groups with specific housing requirements, including people who wish to commission or build their own homes.
12. It is claimed that the CS, covering the period 2006 – 2026, is out-of-date and that policies in the Framework should take precedence. However, paragraph 213 of the Framework confirms that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the current Framework. However, the Framework, read as a whole, is a material consideration.
13. In particular, it is asserted that CS Policy CS5 is out-of-date as the Framework supports the development of under-utilised land. However, it is noted that CS Policy CS5 begins with the words '*New development will be strictly controlled in accordance with national planning policies .....*'. Indeed, the environmental objective of sustainable development includes '*making effective use of land as a component of protecting and enhancing our natural, built and historic environment*'. Moreover, it is clear that the three elements of sustainable development should, as stated in paragraph 9 of the Framework, '*be delivered through the preparation and implementation of plans and the application of the policies in this Framework*'.
14. Paragraph 12 of the Framework confirms that '*the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making*'. This holds good even though the plan is at consultation stage for review.

15. Moving on to look at the characteristics of the area, the southern side of Shrewsbury Road has a long open frontage, in the form of playing fields, with an attractive rural backdrop, running eastwards from Pontesbury in the direction of Pontesford. Small recreational buildings adjoin the site and two recently constructed frontage dwellings lie immediately beyond before a short stretch of agricultural land runs into the smaller village of Pontesford.
16. The appellant draws on an officer's report which appears to relate to the adjoining land where development was considered *'to be located in a sustainable location and would, having regard to the nature of the proposal, represent a sustainable form of development'*. For its part, the Council portrays the history of the adjoining land as *'a redevelopment of an earlier dwelling and its curtilage at a time when the Council was unable to demonstrate a five-year housing land supply'*.
17. Whatever the circumstances, I accept that the appeal site is close to the defined settlement boundary of Pontesbury; it has ready access to a wide range of village facilities and amenities; it is served by public transport; and it is not isolated. I also acknowledge that a future household need not be dependent on private car journeys to meet daily needs and embedded sustainability could be achieved in the construction process.
18. However, these strengths have to be balanced against the effect of building an additional house alongside two existing dwellings which lack direct affinity with the built up areas of either Pontesford or Pontesbury. I also consider that the adjoining community buildings provide no support for 'infill' as they are largely a function of the related open land use. In my opinion, the proposed dwelling and curtilage buildings would undoubtedly reinforce the sporadic nature of development in this location and result in further damaging intrusion into the countryside setting of both Pontesford and Pontesbury. The resultant harm would not fulfil the environmental objective of sustainable development.
19. It is said that the appeal site is brownfield land, of poor quality, in that there is historical evidence of spoil waste being deposited on the land. However, there is nothing to suggest that the site is previously developed land within the definition set out in the Glossary to the Framework, although it is acknowledged that the site shows the hallmarks of past activity and rudimentary levelling of deposited material. Despite the somewhat degraded physical appearance of the site, and the opportunity to improve its characteristics through landscaping related to the development, these factors do not undermine the considerable harm that I have identified.
20. In terms of the economic and social objectives of sustainable development, I consider that a single household would provide very limited support for the services and facilities in Pontesbury or elsewhere. In addition, the contribution of a single dwelling to the Council's housing stock, even against the national imperative to improve the supply of housing, has very limited materiality in the context of the Council's unchallenged five year supply of deliverable housing land which has been identified through the plan-making process.
21. I am told that the appellant is the third generation of a local family who have owned the land for almost a century. Whilst it is understandable that a local person should wish to use family land to advantage, this is largely a personal benefit irrespective of the support, in recognition of the family's association

and contribution to the vitality of the village, offered by several members of the public.

22. Whilst weight is to be attached to self-build projects, this is diminished in the case before me as the proposal is not supported by a mechanism that would achieve that outcome. It is also to be noted that the Framework indicates that the planning system should be genuinely plan-led; and that Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
23. Against this background, I find that the limited housing, economic and social benefits arising from the proposal, in combination with some environmental benefits, would be far outweighed by the failure to meet the overall environmental objective of sustainable development. The proposal would thus be at odds with local and national policies when considered in the round. Overall, it would be in conflict with those policies relevant to the consideration of the main issue and the development plan when read as a whole.
24. In my opinion, the material considerations, '*exceptional circumstances*' and representations in support of the proposal do not, individually or cumulatively, outweigh the harm which I have identified and the proposal is to be determined in accordance with the development plan.
25. I therefore conclude, on the main issue, having considered all other matters raised, that the appeal site is not a suitable location for the proposed development having regard to national and local policies.

*David MH Rose*

Inspector