

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

Date: Monday, 10 August 2020

Committee: Northern Planning Committee

Date: Tuesday, 18 August 2020
Time: 2.00 pm
Venue: This is a virtual meeting

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Claire Porter - Director of Legal and Democratic Services

Members of the Committee

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

Substitute Members of the Committee

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

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 257717

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes

To confirm the Minutes of the meeting of the North Planning Committee held on 21st July 2020, attached, marked 2. **Minutes to Follow**

Contact: Tim Ward 01743 257713

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is Friday, 14th August 2020 at 2.00 p.m.

4 Disclosable Pecuniary Interests

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

5 Crowmoor House, Frith Close, Shrewsbury, Shropshire, SY2 5XW (20/01553/FUL) (Pages 1 - 18)

Erection of 33No dwellings and associated operational development following demolition of existing building

6 The Doctors Surgery, Roden Grove, Wem, Shrewsbury, Shropshire (20/02261/FUL) (Pages 19 - 28)

Alterations in connection with conversion of former doctors surgery into one residential dwelling

7 Proposed Dwelling SE Of South Ring, Church Street, Market Drayton, Shropshire (20/01161/FUL) (Pages 29 - 46)

ErectionErection of one detached dwelling; formation of vehicular access (Resubmission) of one detached dwelling; formation of vehicular access (Resubmission)

8 Oakfield, Great Ness, Shrewsbury, Shropshire, SY4 2LB (20/01879/FUL) (Pages 47 - 54)

Erection of single storey and part first floor rear extension and portico to front elevation; internal and elevational alterations

9 Breidden View, Yew Tree Bank, Bomere Heath, Shrewsbury, Shropshire (20/02503/HHE) (Pages 55 - 62)

Erection of a single storey rear extension to a semi-detached dwelling, dimensions 3.50 metres beyond the rear wall, 2.60 metres maximum height and 2.40 metres high to eaves

10 Proposed Dwelling to the east of Ivy Cottage, Walford Heath, Shrewsbury, Shropshire (20/01374/FUL) (Pages 63 - 76)

Proposed Dwelling to the east of Ivy Cottage, Walford Heath, Shrewsbury, Shropshire.

11 Appeals and Appeal Decisions (Pages 77 - 86)

12 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 15th September 2020.

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Committee and Date
 Northern Planning Committee
 18th August 2020

Item
5
 Public

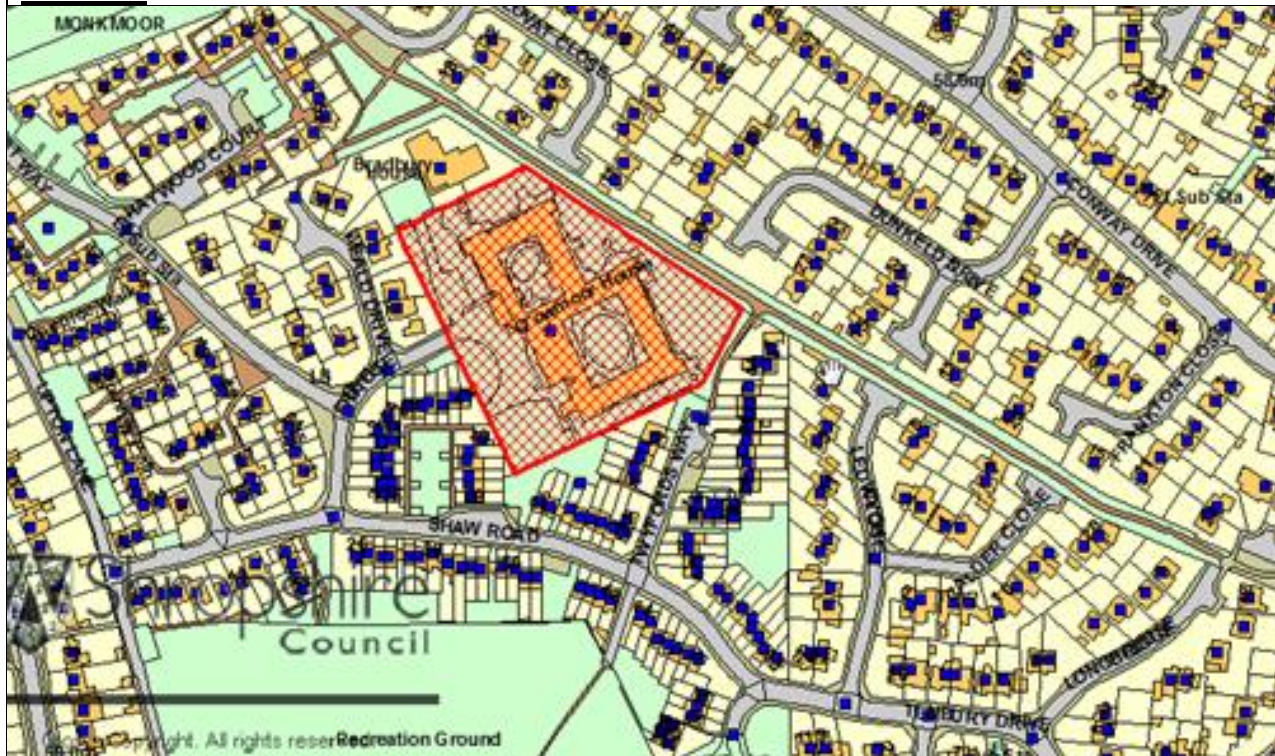
Development Management Report

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

Summary of Application

<u>Application Number:</u> 20/01553/FUL	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Erection of 33No dwellings and associated operational development following demolition of existing building		
<u>Site Address:</u> Crowmoor House Frith Close Shrewsbury Shropshire SY2 5XW		
<u>Applicant:</u> Cornovii Developments Ltd		
<u>Case Officer:</u> Jane Raymond	<u>email :</u> planning.northern@shropshire.gov.uk	

Grid Ref: 351404 - 313255



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Recommendation: Grant Permission subject to the conditions as set out in appendix A and delegate to the Head of Service to make any amendments to these conditions as considered necessary as well as on receipt of the viability appraisal review to finalise the developer contributions to be secured by a memorandum of understanding.

REPORT

1.0 THE PROPOSAL

1.1 This application relates to the erection of 33 dwellings following demolition of the existing building. The applicant is Cornovii Developments Limited which is a private company wholly owned by Shropshire Council.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is 'Crowmoor House' which is a former residential home owned by Shropshire Council. It has more recently been used as a HMO following planning permission (18/05560/COU) for change of use from C2 Residential Institutions to a House in Multiple Occupation (HMO) to provide up to 10 units which is a sui generis use.

2.2 The site is situated in Monkmoor within a predominantly residential area to the north east of Shrewsbury town centre.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as it relates to land owned by the Council for a proposal that is not in-line with statutory functions. The Town Council have also objected to the application based on material considerations.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 **WSP on behalf of SC Highways** (Latest comments 06.08.2020): I can confirm that I have reviewed the responses provided and all matters listed below are accepted. With regard to point 2, service strips don't appear to have been provided adjacent to 32 and 33, however this is only a minor matter, and as suggested perhaps the submission of street lighting details could be conditioned. There are a few minor material details that will need to be reviewed at technical approval stage, for example we would want the area surrounding the tactile paving to be tarmac, rather than block paving, this is just for maintenance purposes. I don't consider that these matters should prevent permission being granted and will result in only minor amendments that can be dealt with through the discharge of conditions.

I can therefore confirm that Shropshire Council as Highway Authority raises no objection to the granting of consent. As above it is recommended that a condition is placed on any permission granted that requires the applicant to submit details of road construction and street lighting. We will also require a Construction Management Plan to be submitted for approval.

- 4.1.2 **WSP on behalf of SC Drainage:** Provides informative advice and recommends a condition requiring the submission of details of foul and surface water drainage.
- 4.1.3 **SC Conservation:** The application site is located some distance outside of any Conservation Area boundaries and positioned amongst a largely post-war residential area consisting of a mix of one and two storey mainly brick houses. The site is occupied by a modern low-rise former residential care home which is now closed. On heritage grounds there are no objections raised in principle with the proposed development which comprises mainly two storey detached houses of brick construction of a broadly contemporary design and aesthetic featuring recessed dark aluminum windows, black rainwater goods and dark slate roofs ' conditions should be applied to ensure these higher quality design and detailing features and good quality external materials and finishes which are illustrated in the planning statement are implemented in the construction phase.
- 4.1.4 **SC Trees:** (Latest comments 22.06.2020): This revised scheme retains the same layout and density but includes an updated landscaping scheme with 4 additional trees proposed including a specimen Tulip tree to replace the Tree of Heaven deemed unsuitable to retain.

For all the tree planting there is a need for a rigorous specification for ground amelioration and the provision of a good growing medium to a depth and volume appropriate not just for initial establishment but for the long-term good health and development into maturity of all the planting stock in accordance good practice as set out in with BS 8545:2014 Trees: from nursery to independence in the landscape ' recommendations and effective measures for after care for 5 years including a watering schedule.

Recommendation

Details of planting pits, soil volumes and a 5 year management plan should be added to the landscape plan in line with BS 8545:2014 'Trees: from nursery to independence in the landscape ' recommendations' and made a condition of approval.

(Earlier comments 04.05.2020): The site has a well-established landscape scheme (although no statutory protection) associated with the former care home gardens consisting of semi mature ornamental trees and overgrown boundary hedges, which could be considered an existing natural asset with regard to SAMDev Policy MD12 the Natural Environment.

The proposed layout is changing form a central building set in landscaping to 33 houses which means that the majority of the trees are proposed to be removed along with the partial removal of 6 hedgerows and 2 other tree groups. One mature Whitebeam and several Beech hedges are to be retained but two other trees which were proposed to be retained are now deemed unsuitable.

My preferred option would be for a grassed area with 3 semi mature trees to the right of the entrance way retained as an area of POS with 3 established Sorbus trees (photo 1) along with a grass verge running to the left of the entrance way with

3 semi mature Larch trees.

Provision of private parking spaces mean the Larch trees and some hedging at the entrance and western boundary currently will need to be removed.

Overgrown Beech hedging along the boundary with Bradley House is problematic as it has little lower growth meaning an attempt to bring it back into management would result in unsightly bare stems serving no screening purpose. Trees here fall within the footprint of the proposed new buildings including a mature Cherry in the NE corner which falls within close proximity and cannot be safely retained.

The large Tree of Heaven (T17) on the north boundary was discussed, and whilst given an “A” category in the tree report, it is apparent that it will not work in the scheme due to its large size and the profusion of suckering new off-shoots arising from underground (evident on site) a feature of this tree species. To mitigate for its loss an adjacent mature Whitebeam on this boundary is now proposed for retention instead which will make an attractive mature feature.

The mixed group of trees in the SE corner of the site and along the southern boundary in the hedge line are apparently all growing on an existing sewer easement and so cannot be retained. A large Lawsons cypress is currently proposed for retention on this south boundary but would be totally unsuitable in a small garden and as south of the property would also cause excessive shading.

Mitigation

Wherever possible, suitable large trees should be retained or planted within appropriately sized and located areas of public open space, rather than enclosed within private gardens. Usually Policy MD2 (Sustainable Design) requires 30m² open space per person although no POS is proposed for this scheme (with an off-site contribution). The current layout has limited options to accommodate appropriate species / numbers of trees to maturity, in a successful juxtaposition between trees and buildings.

I am aware that the scheme still requires replacement planting to be on site and currently mitigation for tree losses includes retention of Beech hedging where possible (with infill) and new native hedging along remaining boundaries which I support. New tree planting includes 11 standard trees - 4 Birch 4 Field Maple and 4 Rowan which are suitable smaller garden specimens for a dense layout.

Conclusion

Having no POS on site means there is no space for any long-lived large canopy trees which contribute the most to climate change adaptation and have the greatest ‘ecosystem service’ benefits and are the trees that also tend to have the highest landscape and amenity value, conferring character and creating a sense of place.

As existing hedging and a mature Whitebeam are to be retained an updated tree protection plan (TPP) and method statement (AMS) reflecting the changes discussed above are required to be submitted.

4.1.5 **SC Ecology:** I have read the submitted Ecological Assessment and the Bat

Activity Surveys. I am happy with the level of survey work and conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

- 4.1.6 **SC Learning and Skills:** Shropshire Council Learning and Skills reports that the local primary school has capacity to manage additional pupils arising from this development. The local secondary school is forecast, with housing developments, to be oversubscribed by the end of the current plan period. This development along with future housing in the area will create additional pressure on secondary schooling. It is therefore essential that the developers of this and any new housing in this area contribute towards the consequential cost of any additional places or facilities considered necessary to meet pupil requirements in the area. In the case of this development it is recommended that any contributions required towards education provision are secured via CIL funding.
- 4.1.7 **SC Affordable Housing:** I am of the view that 'Vacant Building Credit' can be applied in this instance and the following reason:
The building was not made vacant for the purposes of redevelopment but was deemed to be no longer 'not fit for purpose'.
- 4.1.8 **SC Parks and Recreation:** Under Shropshire Council's SAMDev Plan and MD2 policy requirement, adopted 17th December 2015, all development will provide adequate open space, set at a minimum standard of 30sqm per person (equivalent to 3ha per 1,000 population). For residential developments, the number of future occupiers will be based on a standard of one person per bedroom. For developments of 20 dwellings and more, the open space needs to comprise a functional area for play and recreation. This should be provided as a single recreational area, rather than a number of small pockets spread throughout the development site, in order to improve the overall quality and usability of the provision.

The proposed development includes 90 bedrooms which in turn equates to 2700sqm public open space.

Officers would usually require the public open space to be provided for onsite however, it is recognised that this development is close to other amenity open space, known locally as Upton Lane Recreational Ground and therefore to offset the loss of public open space within the development, a financial contribution would be acceptable towards improving open space within this area.

- 4.1.9 **West Mercia Constabulary:** Provides advice with regards to the 'Secured by Design' award which is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment.

4.2 - Public Comments

- 4.2.1 **Local member Cllr Pam Moseley** (Initial comments 28.05.2020):

Trees: I would wish to see the retention of a greater proportion of existing trees and shrubs, especially around the perimeter of the site, and particularly within the south east and south west borders of the site. These trees and shrubs are mature and

add to the green nature of the site, at the same time providing an attractive and welcome buffer with adjoining homes.

Design: many of the houses have been provided with low built out cycle storage and bin stores to the front of the properties. Highways have commented on the difficulties of accessing these. I have other concerns with regard to safety for pedestrians or children at play. Parked vehicles leaving the frontage parking spaces, either in forward or reverse gear, would be unable to see easily any pedestrians in the road, especially children who may be playing there because of these build outs. As all the properties are either semis or detached, there is the possibility of bins being stored to the side or rear of each home.

Highways, vehicular and pedestrian routes: there has been some comment from SC highways regarding the roads proposed in terms of configuration and surfacing, and I understand that there are discussions to take place in these regards. In this most recent iteration of the layout, there are now two pedestrian links through to the cinder path. These, I understand, are to make the site more permeable to pedestrians. As there are already two very close links to the cinder path, one to the west (Weald Drive) and one to the east (Twyfords Way), I think that providing one link may be sufficient. The block paving level surfacing of the two internal roads, looks good, however, I think that it will be very attractive to children playing in the street, as it does not appear to be road in the traditional sense (ie tarmac), which may increase risk of accident.

Open Space: I welcome the provision of funding for improvements to the existing area of open space at Upton Lane which will arise from this development, as this is very accessible both to the new residents of this development and residents of the surrounding area.

- 4.2.2 **Shrewsbury Town Council**: (04/08/2020): Members have considered the above application again following Shropshire Council's Tree Officer report. The Town Council maintain their objections to this application.

(Initial comments 14/05/2020): We have concerns about the proposed removal of trees and would like to see plans to replace with an appropriate schedule for urban gardens. We would also like to see the report from the Shropshire Council's Tree Officer before making a final decision.

- 4.2.3 **Shrewsbury Civic Society**: Overall, the Society is very pleased to see such an application as it represents the first that Cornovii Developments has submitted in Shrewsbury and we are optimistic for the provision of more affordable homes of good quality.

The site has little in terms of archaeological interest and is not in, or close to, a Conservation area. The application seeks to meet good design principles, although it has not been evaluated against Shropshire Development Accreditation criteria. It goes a long way towards being sustainable in all the three ways explicit in the National Planning Policy Framework (NPPF). The Council's "Climate Emergency" may increase some requirements, for example, the need to maximise "greening" and to provide for EVs and to reduce energy use.

A point mentioned by many is the plan to fell such a number of trees and hedges. It is noted that the actual built footprint of the new houses is some 1000sqm less than that of Crowmoor House, so is it really necessary to fell so many trees? Hard surfacing also reduces “greening” and the plan suggests it is not all essential.

The modern look of the proposed buildings is well liked although some suggestions for minor improvements were made e.g.; the string courses of bricks might extend round more elevations so alleviating the massing effect; the plain front door porches might have more generous extension; eaves could extend a little further; and some windows be a little larger. Now building lines are less important, slight adjustments to building angles and positions can enhance privacy.

Notwithstanding the above, the Society welcomes this application and hopes it can progress with haste.

4.2.4 **Two letters of objection from residents with the following issues raised:**

The proposed number of dwellings (33) appears very high for the size of the site and the properties that currently border Crowmoor House in Shaw Road will be overlooked, resulting in a loss of privacy.

Objects to the number of trees proposed to be removed. The trees provide a valuable habitat to wildlife, the greenery makes the area extremely pleasant and beautiful and create a more pleasant area to live by screening multiple buildings and helps to reduce noise pollution.

Without the trees existing residents in Dunkeld Drive will directly overlook into the rear garden of the proposed new houses from an existing side window.

Objects to the additional walkways onto the existing path and the proposed 'Road width' walkway directly opposite houses in Dunkeld Drive is in extremely close proximity to existing properties.

Concerned that the new walkway will increase traffic next to properties in Dunkeld Drive.

Residents in Dunkeld Drive already face security issues, littering and noise from passers-by and is concerned that the proposal will increase the level of disturbance.

Residents in Dunkeld Drive plan first floor extensions above existing garages to create an extra bedroom which would be only 10ft from the new walkway entrance.

The site entrance to Crowmoor House from Frith Close is very narrow, and with the possibility of 66 additional vehicles, will lead to increased traffic, and increased noise.

This is wonderful quiet area of Shrewsbury, and wishes the current situation to remain.

5.0 THE MAIN ISSUES

Principle of development
Scale design character and appearance
Impact on residential amenity
Access/parking
Trees and landscape
Ecology
Developer contributions

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site is situated in an established residential area within the urban development boundary of Shrewsbury. It is close to some services and facilities that can be accessed by foot or by cycle and the Town Centre is also readily accessible by public transport. The location of the development therefore accords with the NPPFs presumption in favour of sustainable development and Shropshire Core Strategy Policy CS2 that identifies Shrewsbury as the main focus for all new residential development. In addition, it represents residential development of a predominantly brownfield site making optimum use of previously developed land which is supported by the NPPF.

6.2 Scale, design character and appearance

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

6.2.2 The proposal is for a total of 33 homes providing an equal mix of predominantly 2 and 3 bedroom semi-detached houses. The proposal also includes two semi-detached bungalows (1 and 2 bed), five 4 bed semi-detached houses and one 4 bed detached house. The dwellings are of a contemporary design and it is considered that the scale, design and appearance of the buildings are appropriate given the context of the site. It is also considered that the building to be demolished has no architectural merit or historical significance and its replacement with the proposed more energy efficient, architect designed homes will represent an enhancement of the site.

6.2.3 The density of the development has been questioned but it is considered that it is in keeping with the density of housing in the locality and the proposal will make efficient use of a brownfield site.

6.3 Impact on residential amenity

6.3.1 Policy CS6 and MD2 seek to ensure that development contributes to the health and wellbeing of communities, including safeguarding residential and local

amenity. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that development ‘creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users’.

- 6.3.2 Two local residents have raised concerns with regards to the proposal resulting in overlooking and a loss of privacy and that the development might have implications for extensions to their own properties.
- 6.3.3 The proposed houses and bungalows are located sufficiently distant from the surrounding residential development and there would be no first-floor windows that would result in the opportunity for overlooking and a loss of privacy. The positions of the new houses and the formation of the two new pedestrian accesses onto the existing footpath would also have no implications for existing homeowners wishing to extend their properties.
- 6.3.4 Concern has also been raised regarding the potential noise and disturbance that might arise due to increased vehicles using the existing vehicular access and pedestrians using the new walkways to access the existing footpath. It is considered that the proposal would not result in a significant increase in traffic compared to its previous use and that any increase in vehicles using Frith Close to access the site would not result in any significant noise and disturbance to residents in Frith Close above that which already exists.
- 6.3.4 The provision of a pedestrian access at the end of each cul-de-sac to access the existing footpath (with bollards to prevent vehicular access) is welcomed as it will provide greater connectivity for existing and future residents. The footpath is already in use and the additional use by future residents of this development should not significantly affect noise, activity and disturbance above that which might already exist from the path’s current use.
- 6.4 **Access/parking**
- 6.4.1 The proposed layout indicates 2 parking spaces for each home plus a few additional visitor parking spaces. The vehicular access will be via the existing access off Frith Close and the estate road is proposed to split into two cul-de-sacs with houses either side. The road is proposed as a block paved shared surface.
- 6.4.2 Highways originally had some concerns about the width of the road, servicing strips, size of turning heads and surfacing materials. They also noted that the proposed bins-stores at the front would not be accessible when cars were parked on the drives.
- 6.4.3 Amended plans have been received to address all the issues that have been raised that include omitting the bin stores and also a revised vehicle tracking plan to demonstrate that large vehicles can access and turn.
- 6.4.4 The latest plans and information have been reviewed by Highways who have confirmed that the proposal is acceptable from a highway perspective subject to minor amendments to surfacing that will be subject to condition and the technical approval to adopt the road as highway. A condition requiring the submission of a construction method statement is also recommended.

6.5 Trees and landscape

- 6.5.1 The proposal includes the removal of all of the trees except one and there has been some concern regarding this raised by two residents, the Local Member and the Town Council. The tree officer's comments following a site visit confirmed that the trees on site (the majority of which are to the periphery) are not protected. The trees could therefore all be removed regardless of whether this development goes ahead and with no mitigation secured.
- 6.5.2 The footprint of the proposed development is actually less than the building being demolished but due to the building being focused in the middle of the site and the proposed houses will be dispersed across the site it is not possible to retain trees that would grow to maturity in the rear gardens of the proposed houses.
- 6.5.3 The tree officer expressed a preference to retain three semi mature Larch trees within the grass verge running to the left of the entrance and an existing grassed area with three semi mature trees to the right of the entrance. Following discussions with the tree officer it was confirmed that the three Larch trees were not the most appropriate of species in an urban environment so close to existing houses and that their removal and replacement with more suitable species was preferred.
- 6.5.4 With regards to the three trees to the right of the entrance, if this area was to be retained the layout would need to be amended and this would result in a reduction in the number of houses including fewer affordable homes. It is considered that in this instance although the proposal would result in the loss of a significant number of semi-mature trees the provision of more affordable homes outweighs this loss and would be mitigated by the provision of additional tree planting of more appropriate species.
- 6.5.5 The Tree officer requested an updated tree protection plan and arboricultural method statement and this has been provided along with a revised layout and landscaping proposal including the additional details of planting and maintenance schedules requested.
- 6.5.6 The revised plan indicates the proposed planting of 15 new trees and also the removal of the originally proposed bin stores at the front and replacement with proposed hedging and shrub beds. This will help green the site and provides much improved soft landscaping compared to what was first proposed. A condition is recommended to ensure that the landscaping is fully implemented and maintained to ensure the initial establishment and the long-term good health and development into maturity.

6.6 Ecology

- 6.6.1 The proposal involves the demolition of the existing building and the removal of trees which have potential implications for wildlife including protected species and their habitat. An Ecological report and bat survey have been submitted and in summary confirm the following:

The proposed development site is of low ecological value.

However:

- *the proposed development site may be used by bats for commuting and/or foraging*
- *Hedgehog may use the proposed development site for breeding/nesting, commuting and/or foraging*
- *vegetation on and bounding the proposed development site contains small Breeding Bird nesting habitat.*
- *Cotonester, an invasive weed, is present on the proposed development site.*

Four bat species were recorded during the bat activity surveys: common pipistrelle, a Myotis sp. bat, noctule and soprano pipistrelle. No bats were recorded to emerge from or re-enter the building and only a limited amount of bat activity was recorded on site during the surveys. It is therefore, concluded that there are no bat roosts present within the building on site and proposed works are not expected to impact roosting bats.

- 6.6.2 The report recommends compensation and enhancement measures for wildlife and mitigation for the following:

Bat (external lighting)
Hedgehogs
Small Breeding Birds
The removal of Cotoneaster

The Councils Ecologist has reviewed the report and is satisfied with the level of survey work and proposed mitigation and enhancement. Conditions and informative advice are recommended to ensure the protection of wildlife and to provide ecological enhancement as required by MD12 and CS17.

6.7 **Developer contributions**

- 6.7.1 Affordable housing: The applicant has submitted a 'Vacant Building Credit' application and the housing team have confirmed that this applies in this instance as the building was not made vacant for the purposes of redevelopment. Although the applicant is not wishing to apply vacant building credit this is relevant to the value of the site as any private developer of the site could develop this site for 100% open market housing and not provide any affordable homes and would be policy compliant.
- 6.7.2 The applicant in this case is Cornovii (a company wholly owned by Shropshire Council) who propose to purchase the site from Shropshire Council at full market value. Cornovii is proposing to provide 12 affordable homes (36%) which is 12 more than they are required to by local and national policy after applying vacant building credit. This does have implications for viability with regards to what other developer contributions are payable in addition to providing more affordable housing than is required.
- 6.7.3 Open Space: SAMDev Policy MD2 requires all development to provide adequate

open space, set at a minimum standard of 30sqm per person (equivalent to 3ha per 1,000 population). For this particular development which provides 90 bedrooms this equates to 2700sqm public open space.

- 6.7.4 Open space is usually required to be on site but in this instance due to the close proximity of the recreation ground at Upton Lane (that includes a play area and BMX track) it is considered that an off-site contribution in lieu of on-site provision is appropriate. The open space contribution is calculated to be approximately £150,000 and discussions with the Town Council that own and manage Upton Lane recreation ground have advised that the recreation ground and facilities would benefit from an upgrade and improvements and that the financial contribution is welcomed.
- 6.7.5 Education: Shropshire Council Learning and Skills reports that the local primary school has capacity to manage additional pupils arising from this development but that along with future housing in the area the additional housing will create additional pressure on secondary schooling. It is therefore essential that the developers of this and any new housing in this area contribute towards the consequential cost of any additional places or facilities considered necessary to meet pupil requirements in the area.
- 6.7.6 Education contributions are sometimes paid for through CIL but for larger development proposals within the urban area of Shrewsbury an Education contribution in addition to CIL is also required. In this particular case it is important that an education contribution is secured as no CIL will be received due to the floor area of the proposed homes being less than the floor area of the building to be demolished. The applicant has agreed to an education contribution of £79,615.
- 6.7.7 Viability assessment: The applicant has submitted a viability assessment to demonstrate that the full cost of the contributions (education and open space) cannot be afforded for the site to come forward on a viable basis. The report identifies that the maximum contribution that is appropriate for the current development proposals to be viable is £96,000.
- 6.7.8 The viability assessment has been submitted to an independent valuer for review, but the report has not yet been received. Once received officers are seeking a resolution from members to approve the proposed development subject to the recommended conditions and that affordable housing, an education contribution and an open space contribution are secured by a memorandum of understanding with the decision of the level of contribution delegated to officers pending the review of the viability assessment.

7.0 **CONCLUSION**

- 7.1 Residential development of this site is acceptable in principle being located in a sustainable location within the urban development boundary for Shrewsbury, and would make efficient and effective use of a brownfield site. It is considered that the layout, scale, design and appearance of the development is acceptable and would have no adverse impact on the character and appearance of the locality or the wider area and would have no significant adverse impact on residential amenity.

- 7.2 A safe means of access and adequate parking will be provided and although the proposal will result in the loss of semi mature trees this is outweighed by the provision of more affordable homes and will be mitigated by the planting of more appropriate tree species and improved landscaping. Future landscape maintenance and management and ecological mitigation and enhancement will be secured by the recommended conditions.
- 7.3 As the land is owned by the Council and the applicant is a Council owned company the developer contributions will need to be secured by a memorandum of understanding (MU) with the exact amounts of financial contribution decided by officers on receipt of the viability appraisal review.
- 7.4 Subject to compliance with the recommended conditions and the agreed MU it is considered that the proposal accords with the aims and provisions of the NPPF and Shropshire LDF policies CS1, CS2, CS6, CS11, CS17, MD2 and MD12 considered to be the most local plan policies relevant to the determination of this application.
- 8.0 Risk Assessment and Opportunities Appraisal
- 8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Site Allocations and Management of Development (SAMDev) Plan:
CS1, CS2, CS6, CS11, CS17, MD2 and MD12

RELEVANT PLANNING HISTORY:

18/05560/COU Change of use from C2 Residential Institutions to House in Multiple Occupation (HMO) to provide up to 10 units (sui generis use) GRANT 19th March 2019
20/01553/FUL Erection of 33No dwellings and associated operational development following demolition of existing building PDE

11. Additional Information

List of Background Papers

20/01553/FUL - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q8W7EMTDM2W00>

Cabinet Member (Portfolio Holder) - Councillor Gwilym Butler

Local Member - Cllr Pam Moseley

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities; - measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- a construction traffic management (and HGV routing plan) and community communication protocol;
- construction and delivery times.

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

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

4. Notwithstanding any of the submitted details, no above ground works (other than demolition and site clearance) shall take place until full construction details of any new roads, footways, accesses, street lighting, transition features, full block paved surfacing of shared space areas together with details of disposal of surface water to a suitable outfall have been submitted to, and approved in writing by the Local Planning Authority. The approved details

shall be fully implemented before the development is first occupied.

Reason: To ensure the development is completed to the required standards for future adoption.

5. No above ground works (other than demolition and site clearance) 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 first occupied.

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

6. Prior to the above ground works commencing details of the roofing materials, the materials to be used in the construction of the external walls and the details of all doors and windows 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.

7. All hard and soft landscape works shall be carried out in accordance with the approved plans. The works shall be carried out prior to the occupation of any part of the development hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

8. Prior to the occupation of any part of the development a landscape management plan (to include a maintenance schedule and management responsibilities) for all landscape areas (other than privately owned, domestic gardens) shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved in perpetuity or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

Reason: To ensure the adequate future management and maintenance of landscaped areas that are outside privately owned gardens.

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

- A minimum of 6 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 10 artificial nests, of either integrated brick design or external box design, suitable for a range of bird species, including starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes), house martins (house martin nesting cups) and small birds (32mm hole, standard design).

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

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with

MD12, CS17 and section 175 of the NPPF.

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

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

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

11. No windows or other openings shall be formed above ground floor level in the south west facing side elevation of the house on plot 33.

Reason: To preserve the amenity and privacy of adjoining properties.

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Committee and Date
Northern Planning Committee
18th August 2020

Item
6
Public

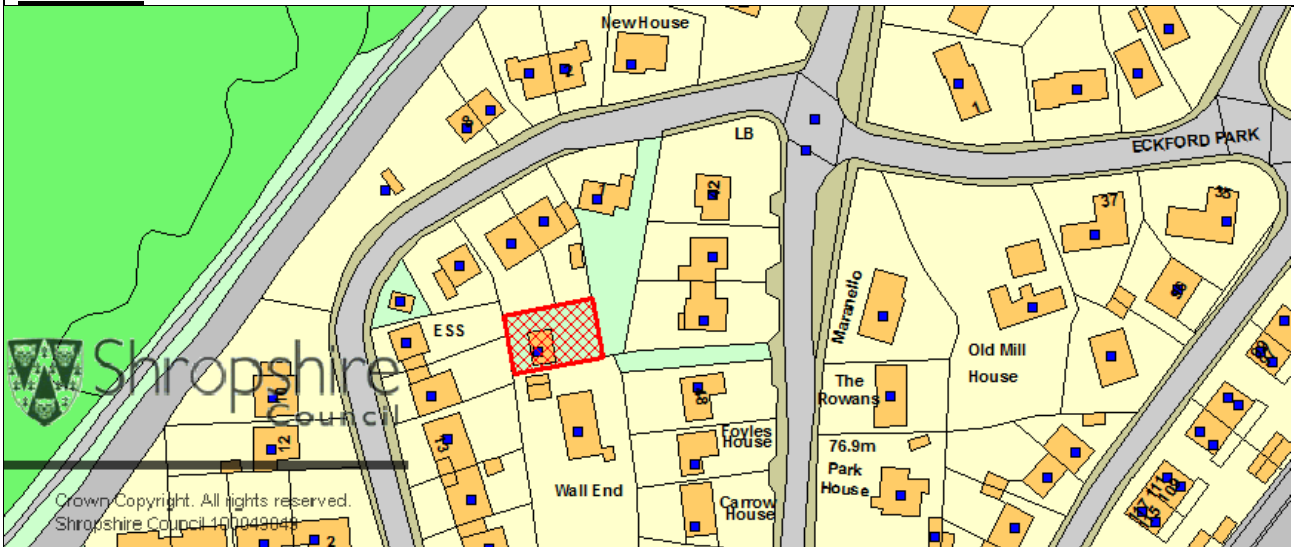
Development Management Report

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

Summary of Application

<u>Application Number:</u> 20/02261/FUL	<u>Parish:</u>	Wem Urban
<u>Proposal:</u> Alterations in connection with conversion of former doctors surgery into one residential dwelling		
<u>Site Address:</u> The Doctors Surgery Roden Grove Wem Shrewsbury Shropshire		
<u>Applicant:</u> Mr Richard Garbett		
<u>Case Officer:</u> Jane Preece	<u>email:</u> planning.northern@shropshire.gov.uk	

Grid Ref: 351077 - 328426



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

REPORT

1.0 THE PROPOSAL

1.1 The application seeks full planning permission for ‘Alterations in connection with conversion of former doctors surgery into one residential dwelling’

2.0 SITE LOCATION/DESCRIPTION

2.1 The former Doctors Surgery lies within the predominantly residential area of Roden Grove, Wem. A veterinary practice lies to the north east. The former doctors surgery is accessed off the Roden Grove estate road and shares the access way with the vets practice.

2.2 Photographs of the property are given below:



- 2.3 The site lies within the development boundary of the market town of Wem for development plan purposes.
- 3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**
- 3.1 The applicant is an employee of Shropshire Council and works in the Highways Department.
- 4.0 **Community Representations**
- 4.1 **Consultee Comments**
- 4.1.1 **SUDS** – No comment from drainage and flood risk perspective, as there are no proposed changes to the footprint of the building.
- 4.1.2 **SC Affordable Homes** – If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.
- 4.2 **Public Comments**
- 4.2.1 **Wem Town Council** – Wem Town council does not have any comments on this application.
- 4.2.2 **Public representations** – The application has been publicised by way of a site notice and neighbour consultation letters. No representations have consequently been received.
- 5.0 **THE MAIN ISSUES**
- Policy and principle of development
 - Character and appearance
 - Residential amenity
 - Access and parking
- 6.0 **OFFICER APPRAISAL**
- 6.1 **Policy and principle of development**
- 6.1.1 The existing building is located within the Wem development boundary, where the principle of conversion to residential use is considered acceptable under Shropshire Core Strategy policies CS1 and CS3; Site Allocation and Management of Development (SAMDev) Plan policy S17 and the NPPF.
- 6.1.2 It is considered that the re-use of an existing building is a sustainable option in providing additional residential accommodation in Wem and bringing a vacant building back into use. Whilst the building formerly provided a facility/service as a doctors surgery, there is evidence available to demonstrate the ongoing use was unsustainable. A link and notice of closure/proposed closure extract are provided below in this regard:

6.1.3 <https://www.clivemedicalpractice.nhs.uk/info.aspx?p=13>

‘Proposed Closure of Roden Grove

Notice Of Closure

The Roden Grove Branch surgery located at Roden Grove, Wem, Shrewsbury, Shropshire, SY4 5HG will permanently close on 31st January 2020.

If you have used the surgery in recent months, you may have seen notices in the surgery advising of the planned closure and inviting your comments.

The main surgery, Clive Medical Practice will remain open, the closure of the branch surgery will not affect your registration with Clive Medical Practice and the doctors and staff very much hope that you will remain as a patient. However, if you wish to register with a different practice you are free to do so.

Proposed Closure

For some time the practice has been experiencing difficulty in managing and sustaining the branch surgery in Roden Grove. All our patients deserve a high quality healthcare service but for a number of reasons we feel unable to deliver the services we would like to from this branch. Therefore we have made a request to NHS England Clinical Commissioning Group to close Roden Grove Surgery.

For the Partners of Clive Medical Practice the decision to request the closure of the branch surgery has not been taken lightly. Over the past twelve months, we have tried various solutions to keep the branch surgery open. However, the national shortage of GPs has led to difficulty in recruiting permanent doctors. In addition, provision of modern primary healthcare is becoming increasingly difficult and delivery on two sites is no longer sustainable. As GPs we are primarily concerned with the well-being of our patients. We believe that centralising services on a single site at Clive Medical Practice, we will be able to offer a more flexible, efficient GP service with better access for our patients. We welcome your views so if you wish to you can complete the short survey by following the link to an online survey: ...’

6.2 Character and appearance

6.2.1 The conversion proposals will utilise existing openings and will not materially or adversely affect the character and appearance of the existing building. Otherwise, the building is surrounded by hard surfacing and would benefit from some soft landscaping, both to improve visual appearance and enhance biodiversity. This can be addressed by imposing a landscaping condition.

6.3 Residential amenity

6.3.1 The building is single storey in height, with proposed habitable room windows at ground floor level where it is considered they will not impact on privacy of adjoining neighbours. There is however, a single window in the gable end elevation (north) above ground floor level. Therefore, it is considered that a condition should be imposed that this window be obscure glazed to safeguard privacy. Furthermore, to further safeguard privacy and to ensure the property remains to be served by an adequate amount of external space then it is also considered that permitted development rights should be removed by condition to extend the property, including in relation to altering the roof or extending above ground floor level.

6.4 **Access and parking**

6.4.1 No access and parking issues have been raised. The property is accessed via an existing access off Roden Grove and will have space at its frontage to provide adequate on-site parking, although parking provision is not actually detailed on the block plan. Nonetheless, a planning condition can be imposed to secure appropriate parking details (on a layout plan) and ensure that the consequently approved details are maintained in perpetuity to serve the proposed development.

6.5 **Drainage**

6.5.1 No drainage issues have been raised.

7.0 **CONCLUSION**

7.1 On balance and subject to compliance with recommended planning conditions of approval, officers consider that the proposal is acceptable and capable of compliance with local and national planning policies. Approval is therefore recommended, subject to the imposition of the conditions listed in the appendix below.

7.2 In considering the application due regard has been given to the following planning policies as relevant: Shropshire Core Strategy CS1, CS3, CS6, CS8, CS9, CS11, CS17 and CS18; Site Allocations and Management of Development (SAMDev) Plan policies MD1; MD2, MD3, MD12 and S17; the Council's SPD on the Type and Affordability of Housing and the National Planning Policy Framework.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and SAMDev Plan Policies:
CS1 - Strategic Approach
CS3 - The Market Towns and Other Key Centres
CS6 - Sustainable Design and Development Principles
CS8 - Facilities, Services and Infrastructure Provision
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD1 - Scale and Distribution of Development
MD2 - Sustainable Design
MD3 - Managing Housing Development
MD12 - Natural Environment
Settlement: S17 - Wem
SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

NS/80/00600/FUL Erection of extension to existing veterinary surgery. GRANT 12th August 1980

11. Additional Information

[View details online:](#)

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

Documents available to view via SC planning portal for the planning application.

Cabinet Member (Portfolio Holder)

Councillor Gwilym Butler

Local Member

Cllr Pauline Dee

Cllr Chris Mellings

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

3. Any external materials used in the proposed conversion scheme shall match in colour, form and texture those of the existing building.

Reason: To ensure that the works harmonise with the existing development.

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

4. A full scheme of landscaping details, to include both hard and soft landscape works, shall be submitted for the prior written approval of the Local Planning Authority. The landscape works shall be carried out in full compliance with the approved scheme prior to the first occupation of the dwelling hereby approved or otherwise in accordance with a schedule and timescale to be firstly agreed in writing with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the Local Planning Authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure that the appearance of the development is satisfactory and in the interests of visual amenity; to secure biodiversity enhancements and to ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

5. Details of on-site parking provision shall be submitted to and agreed in writing with the Local Planning Authority and implemented as agreed prior to the dwelling first being brought into use. The approved parking shall thereafter be permanently retained and maintained at all times for that purpose.

Reason: To ensure the provision of satisfactory parking facilities in the interests of highway safety and ensure an appropriate level of parking is provided for the lifetime of the development.

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

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- extension to the dwelling
- addition or alteration to the roof
- any rooflights or dormer windows

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and visual amenities.

7. The window in the north gable elevation shall be permanently glazed with obscure glass and shall thereafter be retained as such.

Reason: To preserve the amenity and privacy of adjoining properties.

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Committee and Date
 Northern Planning Committee
 18th August 2020

Item
7
 Public

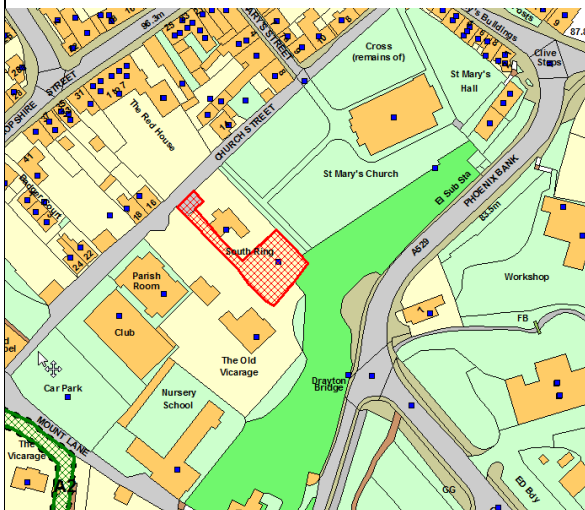
Development Management Report

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

Summary of Application

Application Number: 20/01161/FUL	Parish:	Market Drayton Town
Proposal: Erection of one detached dwelling; formation of vehicular access (Resubmission)		
Site Address: Proposed Dwelling SE Of South Ring Church Street Market Drayton Shropshire		
Applicant: Mr Max Cole		
Case Officer: Sue Collins	email : planning.northern@shropshire.gov.uk	

Grid Ref: 367546 - 334015



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Recommendation:- Refuse for the following reasons:

1. The proposed development will have an unacceptable impact on the setting of adjacent designated heritage assets as well as the Market Drayton Conservation Area. this is considered to be contrary to the requirements of the NPPF and policies CS6, CS17, MD2 and MD13 of the Shropshire LDF.

2. Insufficient information has been provided with the application to demonstrate that the proposal will not have a long-term impact on the trees that are adjacent to the site. As these are an important feature of the area and its landscape, their loss would be unacceptable. As such the proposal is contrary to the NPPF and policies CS17, MD12 and MD13 of the Shropshire LDF.

3. The design and proximity of the proposed dwelling to the neighbouring dwelling and its proximity to the churchyard would result in a loss of privacy and significantly alter the perceived enjoyment of the area. As such the proposal is considered to be contrary to policy CS6 of the Shropshire LDF.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks planning permission for the erection of a detached dwelling and the formation of a vehicular access.

1.2 During the course of dealing with this application amendments have been made and additional information provided. It is on the basis of these that this report is written.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is part of the rear garden to South Ring, Church Street, Market Drayton. To the north east lies St Mary's Church and its associated Church Yard. To the east lies Phoenix Bank which is a sharp bank providing excellent views to the Church as approaching Market Drayton from this route. There are trees and shrubs along the bank and its top. To the south of the site lies The Old Vicarage with the Parish Room lying to the west. Church Street and South Ring lie to the north west of the application site.

2.2 The land that is part of the garden is relatively flat and is surrounded by a number of mature/semi-mature trees including trees that are within the adjoining properties.

2.3 While there is housing located on the northern side of Church Street, the south side is very open allowing the Church and the Church Yard to have dominance over the character of the area. At present there is the visual and setting connection between The Old Vicarage and St Mary's Church with wide open space to each building.

3.0 REASON FOR ~COMMITTEE DETERMINATION OF APPLICATION

3.1 Applications where the Parish Council submit a view contrary to officers (approval or refusal) based on material planning reasons the following tests need to be met:

(i) these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and

(ii) the Area Manager or Principal Planning Officer in consultation with the committee chairman or vice chairman and the Local Member agrees that the Parish/Town Council has raised material planning issues and that the application should be determined by committee

The Local Member also requested that the application be determined at committee due to the contentious nature of the scheme.

4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online

4.1 Consultee Comments

4.1.1 Town Council:

Date comment received: 15th May 2020

Comment: Market Drayton Town Council support the application.

Date comment received: 15th April 2020

Comment: Market Drayton Town Council's Planning Committee have not held a meeting due to the Coronavirus. The comments are those of the Chair and Clerk.

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

Conservation: Objection

In considering the proposal due regard to the following local policies and guidance has been taken, when applicable: CS6 Sustainable Design and Development and CS17 Environmental Networks, MD2 Sustainable Design, MD13 Historic Environment and with national policies and guidance, National Planning Policy Framework (NPPF) published February 2019 and Section 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

Details:

A further document has been submitted by the Agent in support of the application Planning Statement and Statement of Significance. This document is still considered to be deficient in its assessment of the significance of the heritage assets and the contribution made by their setting and each other. We do not consider that it fulfils the requirements para 189 of the NPPF and MD13 of SamDev.

We would suggest that the proposed dwelling is cramped on the site and whilst the Planning Statement suggests that its design has been influenced by surrounding properties, this has not been articulated in either the submitted DAS or Planning Statement. A DAS is expected to explain to LPAs and other parties "...how the proposed development is a suitable response to the site and its setting ... and the analysis that has underpinned the design..." (Para 029 NPPG). We do not consider that the proposed development responds to the character, identity or form of the surrounding area, especially when compared to the properties on the south east side of Church Street, which consist mainly of

large properties in large gardens set in a green area around the Church. As noted in the Market Drayton Snapshot Conservation Appraisal the area is "...85a very quiet area, a great contrast to the centre of town" where further development will not enhance it but will serve to detract from it. There is also no provision for ancillary storage ie lawnmower, bikes, garden furniture etc, which will inevitably lead to more structures proposed on the already cramped site.

RECOMMENDATION:

The submitted information is still considered to be insufficient in its assessment of significance and therefore it does not change the comments made previously by the HE Team, which were not supportive. We would still suggest that the level of harm that will be caused by this proposed development to Church of Saint Mary (Grade II*) and The Old Vicarage (Grade II) is less than substantial harm. Decision takers should refer to para 196 of the NPPF with regard to this and that harm should be weighted against any public benefits of the proposal. We would also remind them of the great weight given to the preserving of the designated heritage assets and their settings through Section 66 of the PLB&CA Act 1990 when carrying out this planning balance.

We would suggest that harm will be caused to the character and appearance of the Market Drayton Conservation Area by a development which does not enhance or better reveal its significance as required by para 200 of the NPPF. Overall we would suggest that the application does not comply with both local and national policy and is therefore not sustainable development.

In considering this application special regard to the desirability of preserving the buildings and their settings, together with its features of special architectural and historic interest which it possesses, has been made in line with Section 66 (1) and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area in line with Section 72 (1) of the above act.

4.1.3 Archaeology: No objection

The proposed development site lies immediately adjacent to the medieval historic core of Market Drayton (HER PRN 06006), as defined by the Central Marches Historic Towns Survey, and a tenement plot which may have contained the site of the medieval vicarage (HER PRN 06003). The latter area was subsequently incorporated into the churchyard in the 19th century, although some local historians have suggested that the proposed development site may have formed part of the medieval churchyard. A plan of Market Drayton on an estate map of 1787, held by Shropshire Archives, indicates that suggests that two buildings may also have previously stood on the South Ring site. For these reasons the site is deemed to have moderate to high archaeological potential.

RECOMMENDATION:

In view of the above, and in line with Policy MD13 of the Local Plan and Paragraph 199 of the NPPF, it is advised that that a phased programme of archaeological work, to comprise an initial evaluation followed by further mitigation as appropriate, be made a condition of any planning permission for the proposed development.

Highways: No objection subject to the development being constructed in accordance with the approved details and the recommended conditions and

informative notes.

Further to the Highway Advice Note dated 29.04.2020, revised details have been demonstrated on Block Plan Drawing No. SR/MC/2020/2/B published on 29.04.2020. The highway matters previously raised in terms of the access and visibility arrangements are now considered to have been satisfactorily addressed. It is considered that, subject to the conditions listed above being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

It is advised that prior to the submission of the required information for the Traffic Management Plan, the applicant/developer should contact Shropshire Council's Street Works Team on the appropriate link to approve details prior to applying for the discharge of the condition.

Trees: Objection

NB Due to current restricted site visits these comments are based on submitted documents, photos and Google images.

Having read the submitted Old Oak Tree Care tree report my comments are as follows:

The report has demonstrated that with special engineering measures and cutting back of adjacent trees the site can be developed in line with BS5837 2012 "Trees in relation to development".

Trees and hedges to be removed from inside the site are category "C" in particular a laburnum and I have no objection to their removal with no loss of public amenity.

In order to construct the driveway and footings the use of no dig methods of construction and a three-dimensional grid system has been proposed in the areas affecting rooting areas of the adjacent trees. If done correctly root protection areas can be protected using these methods and are within the recommended limits of rooting area which can be safely covered over in the above British Standard.

Trees over-hanging the site but not in the applicant's ownership will need to be pruned repeatedly, namely a Yew tree currently by 2m and a Holly tree by 1m – concern has been raised about the possible long-term effect on the Yew of repeated pruning, but I am unable to predict if this would lead to any dieback. There are Common Law rights about cutting back encroachment over boundaries which may apply, so again I raise no objection to this aspect of the application.

Shading and dominance of the proposed new building by the trees had not been addressed and as can be seen in the Google image picture below (taken in the summer months) it is apparent that this could be an issue leading to the requirement for more tree cutting to allow for a reasonable enjoyment of the property.



As the site is in a Conservation Area and the trees affect the setting of a listed building, any erosion of tree cover would be considered detrimental, albeit with limited loss of public amenity if viewed from Church Street, but from an overall landscape perspective. As this proposal has the potential to affect important trees which they in turn may be detrimental to the reasonable enjoyment of the proposed new property, I am unable to support the proposal on arboreal grounds.

Ecology: No objection subject to consideration of standing advice'

Drainage: No objection

Regulatory Services: No comment

4.2 **Public Comments**

4.2.1 Sixty letters of representation have been received. The concerns raised relate to:

Policy

- There are inconsistencies in the responses from Consultees in relation to the application
- It is clear that there are irregularities in the application and that it should not be unlawful and not be considering making a decision.
- The existing building is an eyesore and the applicant should be made to repair this before building new dwellings.
- All previous applications made since 2005 have been refused for development of this site and they should continue to do so.
- Policy states that where development will harm or affect the significance of the heritage asset, planning permission should not be granted. With the NPPF this urges planning officers to be sympathetic to local character and history. This includes where there is substantial harm to heritage assets.

Historic Environment

- The NPPF sets out the consideration for impact of development on Heritage Assets. For Grade II* buildings any consent that may harm the listed building and its setting should be granted only in wholly exceptional circumstances. For Grade II buildings then exceptional circumstances are required.
- The NPPF points out that where substantial harm would be caused to the significance of a heritage asset planning permission should not be granted.
- The proposal will have substantial harm and unacceptable impact on the setting of the Grade II* Church and the Grade II The Old Rectory.
- This area of the town is the most beautiful and largely unspoilt.
- The development will separate the historic connection between the Grade II* St Mary's Church and the Grade II dwelling The Old Rectory.
- Ignoring the details in the Listing would be a breach of Statutory Duty by the Council.
- The proposal is contrary to adopted local and national policies as well as details set out in the Planning (Listed Building and Conservation Areas) Act 1990.
- This area is an ancient burial ground and will therefore involve human remains being disturbed. If approved a thorough archaeological survey should be undertaken
- The size, design and materials to be used will demean any heritage protection of the listed buildings and the Conservation Area. Heritage assets are required to use high quality materials to protect their buildings and the Conservation Area. The new dwelling must do likewise.
- The Group Value of the The Old Rectory and the Church is quoted in the listing for The Old Rectory as the two buildings are historically linked and this connection should remain visible.
- Features exist such as boundary walls which link the Church and The Old Vicarage.
- Vegetation in the area is deciduous and therefore would not screen views of the new building during the winter months. Furthermore these are not permanent unlike a new dwelling. As such the wide open gap referred to in the report remains.
- The heritage statement fails to refer to views from within the Churchyard itself or the Old Rectory. Therefore its findings are biased and are not a full reflection of the potential impact of the proposal.
- The heritage report is inviting the council to ignore the listing details. This is contrary to the requirements of the duty of the Council to protect heritage assets.
- Errors have been made in the heritage statement where the listing details of The Old Rectory are more recent than the construction of South Ring and as such would take this into consideration in its description. Also there has been a failure to acknowledge that the listed status applies to all structures and erections within the curtilage of the listed building including boundary walls.
- The opinion of the Conservation Officer that the proposal is less than substantial is incorrect taking into consideration the Barnwell decision and Section 11 of the 1990 Act.

Design

- The design of the proposed building is inappropriate. It would be invasive and out of keeping with the Conservation Area and its setting with the adjacent listed buildings.
- The proposal will result in a cramped form of development in comparison to its surroundings and is considered to be overdevelopment.
- The proposed two storey building would be clearly visible from the A529 on the approach into Market Drayton.
- If the building is to be occupied by potential wheelchair users or vulnerable people it is not fit for purpose with first floor accommodation.

Highways

- The high boundary walls at the access will cause a loss of visibility and as such cause a highway hazard both to drivers and pedestrians.
- As there are no pavements along Church Street, all pedestrians have to walk along the road. With the neighbouring social uses – the Church, Parish Rooms etc this is considerable. Increasing traffic will increase the risk to other road users.
- The parking and turning indicated on the plans are inaccurate and not possible.
- No cycle parking provision has been included in the scheme.
- The proposed access is unsuitable for emergency services and therefore will put lives at risk.
- The narrowness of Church Street does not allow for the free flow of traffic. Obstruction by parked emergency vehicles could exacerbate the existing situation.
- Despite the comments of WSP UK the access will remain dangerous and accidents will happen.
- The works required to carry out the works are outside of the application site and the ownership of the applicant. Therefore it is not possible to condition that they be carried out.

Ecology

- Insufficient information has been provided regarding the impact of the proposal on the wildlife in the area. The empty property is a home for bats and hedgehogs.

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Drainage

- No drainage details have been provided therefore it is not possible to assess the impact the proposal will have.

Impact on Neighbours

- The development is close to The Old Rectory resulting in a loss of privacy.
- The development will cause unacceptable disturbance to neighbouring properties.
- The height and proximity of the building to The Old Rectory will have an overbearing impact.

Trees

- Significant trees could be impacted upon by the development

- Some neighbouring trees are protected. The applicant cannot give a guarantee that these will not be damaged as a result of the construction works.
- The removal of any trees on this site will cause potential damage to the stability of Phoenix Bank.
- Some important trees have been omitted from the details and information provided.

Other Matters

- There are inconsistencies in the application form submitted with the application. These include the ownership of the application site, that South Ring is occupied and the number of bedrooms to the dwelling.
- There have been issues in the past with the stability of Phoenix Bank. The construction of a building in this location is likely to cause issues which would endanger people. A report has indicated that provided no further developments take place the bank will remain stable.
- The dwelling would result in restrictive views from The Old Rectory.
- There is potential for contaminants on South Ring such as asbestos.
- Demolition works have been carried out at South Ring without consent.
- It is alleged in the statement that South Ring is occupied. This is not the case. The dwelling has been vacant for at least 10 years.
- An extension has already been demolished at the dwelling to make space for the proposed means of access.
- The applicant has encroached over the boundary to The Old Vicarage
- The proposal is for commercial gain and not for the benefit of the area or the town.
- The Ecology report has been carried out on behalf of someone who is not connected with the application. Therefore, how reliable is it.
- There is also a discrepancy between Land Registry Title plans and the red line edging on the application plans.
- The number of objections to the proposal indicate the level of feeling to the proposed development.
- Market Drayton Town Mayor, Cllr Aldcroft has stated in the press that the views of residents should be considered more thoroughly when Council's make planning decisions.
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THE MAIN ISSUES

- Policy and Principle of Development
- Impact on Historic Environment
- Affordable Housing
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- Trees
- Ecology
- Archaeology
- Drainage
- Other Matters.

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 Market Drayton is defined in the SAMDev as a Market Town where residential and commercial development is to be focussed. Under policies S11, CS3 and MD1 new housing within the development boundary would normally be considered acceptable. As such no objection to the principle of development can be made. However, other matters also need to be considered and balanced with this agreement to the principle of development.

6.2 Impact on Historic Environment

6.2.1 As indicated above the site is located in a very sensitive location between the Grade II* Listed Parish Church and the Grade II Listed the Old Rectory. It is also set within the Market Drayton Conservation Area. When approaching the town from the south east the church is highly visible at the top of Phoenix Bank. In winter the Old Vicarage is also visible with the deciduous trees being bare of leaves. Therefore this site will be equally as visible in the townscape. Within the public realm the site is also readily visible from the Churchyard

6.2.2 The objections received to the proposed development raise serious concerns at the impact the development will have on the setting of the two listed buildings as well as the character and appearance of the Conservation Area. Of particular concern is the separation the development will have on the Church and The Old Vicarage which are historically linked.

6.2.3 A Statement has been provided by the applicant to support the proposal. This alleges that the linkage between the Church and The Old Vicarage has already been severed or reduced by the construction of South Ring in 1947. The growth in trees and vegetation has further separated the buildings. It is indicated that the listed statement stating that the buildings have "Group Listing" is no longer applicable. Their architectural features and importance can continue be enjoyed separately. It also identifies that the proposed dwelling would be no further south facing than the existing cemetery wall and the west facing wall will be towards outbuildings at The Old Vicarage. Store is set that the existing trees and vegetation screen the existing buildings and the site so that there is no "linkages". It also references an application reference 14/00263/OUT which was recommended for approval but refused as the applicant refused to enter into a S106 to ensure an Affordable Housing Contribution be made.

6.2.4 The Conservation Officer has reviewed the Statement and the application. They

are concerned that the submitted statements are deficient in their assessment of the significance of the heritage assets and the contributions they make to their setting and each other. The development is considered to be cramped on to the site and while supporting documents cite that the building has been designed using influence from surrounding properties this has not been fully articulated.

- 6.2.5 Further they consider that the proposed development does not respond to the character identity or form of the surrounding area. This is particularly in relation to buildings on the south east side of Church Street. The Conservation Appraisal of the area states that it is "... a very quiet area, a great contrast to the centre of town ...". There is also a concern that the proposal includes no provision for the storage of domestic paraphernalia such as lawnmower, bikes etc and this could result in further development being required resulting in an even more cramped development of the site.
- 6.2.6 As there has been insufficient information submitted in relation to the impact on the heritage assets and the Conservation Area, the Conservation Officer is not supportive of the proposal. It is advised that any decision should be made taking into consideration para 196 of the NPPF with regard to this and the harm should be weighted against any public benefits of the proposal. Great weight should also be given to the preserving of the designated heritage assets and their settings through Section 66 of the Planning (Listed Building and Conservation Area) Act 1990.
- 6.2.7 In the Officer's opinion it is suggested that the level of harm is less than substantial as set out in the NPPF. While a representation indicates that the level of harm is significant, the Conservation Officer has balanced this with the context and nature of the development which is significantly different to the case referred to in the Barnwell case which was for a wind turbine within 1km of a listed building. Furthermore, it is considered that harm will be caused to the character and appearance of the Market Drayton Conservation Area. The proposal does not enhance or better reveal its significance within the Conservation Area as required by para 200 of the NPPF.
- 6.2.8 Overall from the representations received and the comments of the Conservation Officer there is a clear concern that the construction of a building on this site will permanently sever the visual linkage between the Church and The Old Rectory. While the Statement submitted with the application suggests that the group value is no longer relevant, the listing detail for The Old Vicarage was written in 2010 when South Ring had been in existence for many years. Therefore, this should not be ignored in determining this application. On this basis it is recommended that the application be refused as being contrary to the NPPF, policies CS17 and MD12 of the Shropshire LDF and the requirements of the Planning (Listed Building and Conservation Area) Act 1990.
- 6.3 **Design, Scale and Character**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and

construction principles are incorporated within the new development. The National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. In addition, policy MD2 of SAMDev builds on policy CS6 and deals with the issue of sustainable design.

- 6.3.2 As the site is within the setting of adjoining Listed Buildings and the Market Drayton Conservation Area policies CS17 and MD12 are also relevant in the consideration of this application.
- 6.3.3 Concerns have been expressed by a number of representatives that the proposed design and scale of the development is inappropriate in this location.
- 6.3.4 The proposal is for a dwelling that will have a kitchen, conservatory, and master bedroom suite on the ground floor with three further bedrooms, lounge and bathroom on the first floor a lift is to be installed to provide access to both floors. The maximum dimensions for the proposed building are approximately 10.2 metres by 9.45 metres with a height to ridge of 7 metres. Externally, the building is to be clad in brick with natural slate to the roof and natural stone details. UPVC windows are proposed. It should be noted that the scale of the submitted drawings appears to be incorrect at 1:200 when in fact they measure more as 1:100
- 6.3.5 Little information is provided with the background information as to where the influence for this design has been obtained and it certainly bears little reflection of either the Church, South Ring or The Old Rectory which are the nearest buildings. Also, the use of UPVC windows in such a historic setting would also be considered inappropriate. Policy requires any development in these areas to be carried out to a high standard and quality of detail.
- 6.3.6 Most buildings along Church Street are of brick construction with clay tiles or slate for the roof. The Church is of stone construction with South Ring painted white. The Old Rectory is of brick construction. Very few have the ornate stone finishes proposed on the new dwelling.
- 6.3.7 Overall it is considered that the design of this proposed dwelling is not in keeping with its surroundings and as such is contrary to the NPPF and policies CS6, MD2, CS17 and MD12 of the Shropshire LDF.
- 6.4 **Affordable Housing**
- 6.4.1 Comments have been made by the Affordable Housing Officer in relation to the amount of Affordable Housing Contribution. Whilst the Council considers there is an acute need for affordable housing in Shropshire, the Council's housing needs evidence base and related policy pre-date the Court of Appeal decision and subsequent changes to the NPPG, meaning that on balance and at this moment in time, National Policy prevails and no affordable housing contribution will be required.
- 6.5 **Impact on Residential Amenity**
- 6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and

local amenity.

- 6.5.2 Concerns have been expressed that the proposed building and the associated works will have an unacceptable impact on the residential amenities of the neighbouring dwelling, The Old Rectory. This is through a loss of privacy and the dominant nature of the building.
- 6.5.3 At present the very open and spacious level of development in this area, gives this area a definitive character and as such each of the buildings on the south side of Church Street benefit from this open feeling. While there are trees within the landscape these add to the peaceful and landscape quality of the area. As such the infilling of this area would impact on this openness of the area and introduce a built form much closer to the existing boundaries to neighbouring properties. This will also impact on those who wish to use the churchyard.
- 6.5.4 The openings on the south west elevation will face towards the Old Rectory and not only the outbuildings as specified in accompanying statements. The windows on this elevation will give direct views to the neighbouring property from habitable rooms. The site plan shows a distance of 7.5 metres between the side wall of the dwelling and the boundary. This would only allow for approximately 15 metres to be between the two side walls of the dwellings and as such be within the minimum distance that is a guide to prevent loss of privacy. While there are currently trees within the application site that would limit any potential views, these could be removed and the loss of privacy be felt. The first floor windows would also have views across part of the garden to the Old Vicarage. While a significant area would still remain private some would lose their privacy.
- 6.5.5 As such there remains a concern on the part of officers that the proposal will have an unacceptable impact on the residential amenities of the area and those of the neighbouring churchyard.
- 6.6 **Highways**
- 6.6.1 A large number of concerns have been raised in relation to the impact the new dwelling would have on highway safety. There are concerns that cars will be reversing onto the road which is already severely restricted by its narrowness, the parking of other vehicles and that all pedestrians have to walk along the road as there are no footpaths. Concerns have also been raised that the proposed access will not allow emergency vehicles to gain access to the premises if required.
- 6.6.2 Initially objections were raised by the Council's Highways Development Control Manager. Amended plans have been submitted and the issues raised in terms of the access and visibility have now been adequately addressed. Conditions have been recommended for inclusion on any planning permission that may be granted to ensure that information is provided and the access carried out to the required standard. As part of their assessment the consultee would have taken into consideration the requirements for emergency vehicles. Therefore on the basis of the response from the Highways Development Control Manager no objection is raised to the proposal in relation to highway issues.

6.7 **Impact on Trees**

- 6.7.1 There are large number of trees in and around the application site, some of which are protected. A number of concerns have been expressed regarding the impact any development may have on these trees.
- 6.7.2 It is noted in the Ecology Appraisal submitted by the applicant that their Ecologist comments that the root protection areas for the trees needs to be identified and adhered to for the installation of the protected fencing. The Ecologist has also recommended that hedgerows and trees be retained where possible to ensure that the foraging and commuting habitats for bats at the site are not lost.
- 6.7.3 The Council's Tree Officer has reviewed the application and the submitted information. She also has concerns regarding the proposed development. While there are trees and shrubs within the site which there would be no objection to them being removed, there are significant trees adjacent to the site. There is a concern that this will cause shadowing problems for future occupiers of the dwelling and require the constant pruning of these. This may harm the trees over time and cause their loss. It is considered by the Tree Officer that as the site is in a Conservation Area and the trees affect the setting of listed buildings, any erosion of the tree cover would be considered detrimental from an overall landscape perspective. As the trees may impact on the reasonable enjoyment of the new dwelling it is not possible to support the proposed development on arboreal grounds.
- 6.7.4 From the above there are clear concerns that the impact of the proposed development could have a long lasting impact on the trees and hedgerow in and adjacent to the site. This would potentially have a devastating impact on the landscape and the character of the area.

6.8 **Ecology**

- 6.8.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats. Policy MD12 of SAMDev further supports the principle of protecting and enhancing the natural environment.
- 6.8.2 Objections to the proposed development include the potential impact the development may have on protected species such as bats and hedgehogs.
- 6.8.3 An ecological survey was submitted with the application dated April 2020. From the information contained within the report, while it remains a question as to who the client is, the report definitely relates to the application site. It is noted that the survey would only be for the application site and not the adjacent dwelling South Ring. However as no works to South Ring are included in this application, a survey of the building would not be required. The report has made a number of recommendations which have been accepted by the Council's Ecologist. Therefore should planning permission be granted a condition requiring the recommendations to be followed would be needed as noted on the Standing Advice from our Ecology Team.

- 6.8.4 In view of the above it is considered that the proposed development will not have a detrimental impact on statutorily protected species and habitats. Therefore the proposal meets the requirements of the NPPF policy CS17 of the Shropshire Core Strategy and policy MD12 of SAMDev
- 6.9 **Archaeology**
- 6.9.1 A number of concerns have been raised that the site is part of the original graveyard to the Saxon church originally constructed in the area. Also that the site was used as a medieval graveyard and that bodies may still be present. As such a survey must be undertaken before any works commence on the site.
- 6.9.2 The Council's Archaeologist has reviewed the application and has identified that the site is of moderate to high archaeological potential. As such in accordance with policy MD13 of SAMDev and para 199 of the NPPF a phased programmed of archaeological works are required. As such should planning permission be granted a condition is recommended for inclusion to ensure the necessary works are carried out.
- 6.10 **Drainage**
- 6.10.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.
- 6.10.2 While comments regarding the means of draining the site have been raised, the Council's Drainage Engineer has raised no objection to the proposed development.
- 6.10.3 In view of the above it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.
- 6.11 **Other Matters**
- 6.11.1 Planning History: comment has been made by the applicant that a previous application reference 14/00263/OUT was recommended for approval and only refused as the applicant did not complete the required S106 to ensure the provision of affordable housing contribution was made. Firstly this was an outline application with only the access and layout to be considered. It is noted that the Conservation Officer raised objections at that time too. In addition since the recommendation for approval was made in 2014 there have been significant changes made both in national and local policies which have impacted upon the current recommendation.
- 6.11.2 The inconsistencies and inaccuracies within the application form are noted. However there is no evidence to suggest that Mr M Cole does not own the land that is the subject of this application as shown on the amended plans. It is noted that the previous applicant was also Mr M Cole. The boundary has been amended to line up with the red line edging shown on the Land Registry Plans for South Ring. Furthermore the comment made regarding the occupation of South Ring are immaterial in the determination of this application as they have no relevance in assessing the application. The impact on the amenity of the dwelling would be assessed whether it is occupied or empty.

- 6.11.3 A number of concerns have raised the issue of the stability of Phoenix Bank. This has been a problem in relation to landslips and many are worried that any building works will cause the bank to collapse. While these concerns are understandable, the issue of ground stability is not a reason for the Local Planning Authority to base a refusal. It would be for the future developer to be able to demonstrate that any works to build the development would not affect the ground conditions and as such would be part of the Building Regulations. There are considerable engineering options which would potentially be able to allow the development to be carried out without issue. A Geotechnician would need to be employed by a developer to make this assessment.
- 6.11.4 It has been alleged that demolition works have been carried out at South View and that Asbestos was or may have been present. This matter was investigated separately and it was determined that the section of the building that was removed was of later construction and not of any architectural merit. As such its loss has no impact on the character of the building or the Conservation Area. Also there is no evidence to suggest the presence of contaminated land on the premises. Any Asbestos would have to be removed as required by other Legislation but this is outside of the remit for planning to deal with.
- 6.11.5 Any encroachment on to land by another person that is not within their ownership is a civil matter and the Local Planning Authority has no power to intervene in such matters. It is for the two parties to resolve.

7.0 CONCLUSION

7.1 It is clear on the basis of discussion within this report that there is strong opposition to the proposal on the basis of its location, design and the impact this will have on the setting of the Grade II* Listed Church and the Grade II Listed Old Vicarage and the separation to the historic linkages. In addition concerns have been raised regarding the impact it will have on the character of the Conservation Area. These views are supported by the Conservation Officer. There is also an issue about the potential impact a dwelling in this location may have on the trees adjacent to the site which have roots and branches which may be affected. There is also the potential for the proposal to have an impact on the residential amenities of the area. Therefore while in principle the proposal may comply with the NPPF and policies S11 and CS3, it is the opinion of officers that overall the proposal is contrary to the NPPF, and policies CS6, CS17, MD2 and MD12 and MD13 due to its impact on the setting of the designated heritage assets, the impact on the Conservation Area, as well as the potential impact on residential amenities and the trees in the area. The recommendation is one of refusal for the reasons as outlined at the start of this report.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

representations, a hearing or inquiry.

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework
 Settlement: S11 - Market Drayton
 CS3 - The Market Towns and Other Key Centres
 CS6 - Sustainable Design and Development Principles
 CS17 - Environmental Networks
 CS18 - Sustainable Water Management
 MD2 - Sustainable Design
 MD12 - Natural Environment
 MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

19/05253/FUL Erection of one detached bungalow; formation of vehicular access WDN 16th January 2020
 20/01161/FUL Erection of one detached dwelling; formation of vehicular access (Resubmission) PDE

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member Cllr Roger Hughes Cllr David Minnery
Appendices None



Committee and Date
 Northern Planning Committee
 18th August 2020

Item
8
 Public

Development Management Report

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

Summary of Application

Application Number: 20/01879/FUL	Parish:	Great Ness
Proposal: Erection of single storey and part first floor rear extension and portico to front elevation; internal and elevational alterations		
Site Address: Oakfield Great Ness Shrewsbury Shropshire SY4 2LB		
Applicant: Mr Justin Pocock		
Case Officer: Sara Robinson	email : planning.northern@shropshire.gov.uk	

Grid Ref: 340056 - 318881

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

REPORT

1.0 THE PROPOSAL

1.1 The application seeks planning permission for the erection of a single storey and part first floor rear extension and a portico to the front elevation including internal and external alterations

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is located in countryside in the area of Great Ness, northwest of Shrewsbury. The dwelling subject to the application is orientated to face the highway to the south with a large garden to the front and rear. The wider boundaries of the site are formed of mixed species hedge planting and post and rail fencing.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The opinion of the case officer differs from that of the Parish Council, who have not supported the proposal. The application was therefore taken to Council's agenda setting meeting to discuss whether it warrants further consideration at planning committee. The Chair and Vice Chair consider the Parish Council raised material considerations that warrant Committee consideration.

4.0 Community Representations

- Consultee Comments

SC Conservation (Historic Environment) –08/06/2020

The proposed extensions are more extensive than those previously approved under 19/05495/FUL. No objection to the overall scheme subject to the inclusion of appropriately worded conditions to ensure the external materials to match the existing brick.

SC Archaeology (Historic Environment) – 21/05/2020

No comment.

Parish Council – 09/06/2020

Objects to the proposed development due to lack of justification for the increase in scale. The development is out of character with the Conservation Area.

- Public Comments

This application was advertised via notice at the site and newspaper advertisement. Additionally, the residents of two neighbouring properties were individually notified by way of publication. At the time of writing this report, no representations had been received in response to this publicity.

5.0 THE MAIN ISSUES

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

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Alterations and development to properties are acceptable in principle providing they meet the relevant criteria of Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles; this policy seeks to ensure any extensions and alterations are sympathetic to the size, mass, character and appearance of the original property and surrounding area.

Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible.

Section 7 of the National Planning Policy Framework reinforces these goals at a national level, by requiring development to display favourable design attributes which contribute positively to making places better for people, and which reinforce local distinctiveness.

Shropshire Core Strategy Policy CS17: Environmental Networks is concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreational values and function of these assets.

MD13 of the SAMDev component of the Local Plan seeks to ensure Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored through appropriate and well considered design.

As the proposal is within the boundaries of the Great Ness Conservation Area, special regard to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is required in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area.

6.2 Siting, scale and design of structure

6.2.1 The proposal seeks to provide a single storey extension to the rear and side of the dwelling, link between the dwelling and garage, a part first floor rear extension together with portico to the front elevation at the main entrance door.

The portico is sited appropriately and scale such that whilst it will clearly identify the entrance point of the building, it does not dominate the façade and is therefore acceptable.

It was considered that the development would result in the proposal appearing disproportionate as the ground floor was significantly larger than the first floor.

The proposal has been reduced slightly by reducing the side extension so that the extension sits within the courtyard wall. The proposal will sit partially on the footprint of the existing lounge and will measure approximately 7.3 in depth and will extend 2.8 in width from the existing external wall. It is considered that the side extension does provide some symmetry to the dwelling. Similarly the rear extension which has a depth of 5.2m and a length of 12.7m approximately is considered to be acceptable in terms of scale taking into account the scale of extension. The eaves height of the flat roof design is acceptable and the use of the more modern glazing style for the bifold doors is acceptable. It is also proposed to erect a link between the dwelling and the existing garage. The link will measure 2.96m in depth and 4.4m in width. It is considered that the link will not appear too different to its current appearance due to the courtyard wall/gate which is currently located there.

The first floor extension will measure approximately 2.3 in depth and will extend 4.1 in width. The roof pitch has been designed so as to match that of the existing roof profile.

In terms of design the building will utilise typically domestic features and materials to the single storey rear and side extension and first floor extension, the portico feature is found in the adjacent property to the west and will not be sufficiently prominent to raise concerns.

6.3 **Visual impact and landscaping**

6.3.1 The application site is located within the Great Ness Conservation Area however it is set away from the main cluster of development and the Listed Buildings within the village. Its siting within a plot bounded by mixed species planting ensures that it is not overly prominent within the landscape, nor the Conservation Area.

The introduction of a portico to the front elevation will be visible within the street scene but is not considered to significantly impact the overall appearance of proportions of the dwelling such that a negative visual impact occurs, and the proximity to Listed Buildings results in no impact upon their setting.

The single storey extension will not be visible from public vantage points within the Conservation area or along the street frontage due to the position of the existing dwelling, boundary treatments and scale of the extension as such no harm is considered to arise. The first floor extension is considered to be relatively small in scale and to have a minimal impact upon its appearance and limited impact upon the Conservation Area. The Conservation Officer has been consulted and have raised no objection to the proposed development and requested a condition to ensure the proposed external brick is conditioned to match the existing. The ground floor area is to be rendered and its considered this would be acceptable as it provides a contrast between the original dwelling and the modern extension.

7.0 **CONCLUSION**

The proposal on balance is acceptable in terms of siting, scale and design and no harm to the character and appearance of the Conservation Area has been

identified. As such the proposal is in accordance with the determining criteria of the relevant policies including CS6 and MD13 and as such approval is recommended subject to the conditions as outline in appendix one attached to this report.

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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework
 CS6 - Sustainable Design and Development Principles
 MD2 - Sustainable Design

RELEVANT PLANNING HISTORY:

13/03172/FUL Change of use of outbuilding currently used as holiday let to ancillary residential accommodation in association with main house including alterations to fenestration WDN 6th September 2013

14/02833/FUL Erection of an agricultural workers dwelling and detached garage GRANT 4th December 2015

PREAPP/14/00517 Erection of two storey detached dwelling to include garages, new vehicular entrance and driveway. PREAMD 24th October 2014

14/05711/FUL Erection of one dwelling, double garage and formation of vehicular access GRANT 26th June 2015

15/04384/DIS Discharge of Condition 3 (External Materials) on Planning Application 14/05711/FUL for the erection of one dwelling, double garage and formation of vehicular access DISPAR 4th November 2015

16/02273/DIS Discharge of Conditions 3 (External Materials), 4 (Details of Windows & Doors), 5 (Landscape Design) and 7 (Surface Water Drainage) On Planning Permission 14/05711/FUL for the erection of one dwelling, double garage and formation of vehicular access DISREF 29th September 2016

16/04602/DIS Discharge of condition 3 (External Materials) 4 (Details of Windows and Doors) 5 (Landscape Design) 6 (Landscape Maintenance) 7 (Surface Water Drainage) attached to planning permission 14/05711/FUL Erection of one dwelling, double garage and formation of vehicular access DISAPP 29th November 2016

PREAPP/18/00610 Replacement dwelling and access road widening PREUDV 31st January

2019

19/05495/FUL Erection of single storey rear extension and portico to front elevation; internal and elevational alterations GRANT 12th February 2020

20/01879/FUL Erection of single storey and part first floor rear extension and portico to front elevation; internal and elevational alterations PDE

SA/03/0181/F Erection of a 2 storey extension to provide additional en-suite bedroom and study PERCON 28th March 2003

11. Additional Information

[View details online:](#)

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

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

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

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

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

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

3. The external materials shall match those of the existing building or be as specified in the approved drawings.

Reason: To ensure that the works harmonise with the existing development.

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

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

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

3. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.

-



Committee and Date
 Northern Planning Committee
 18th August 2020

Item
9
 Public

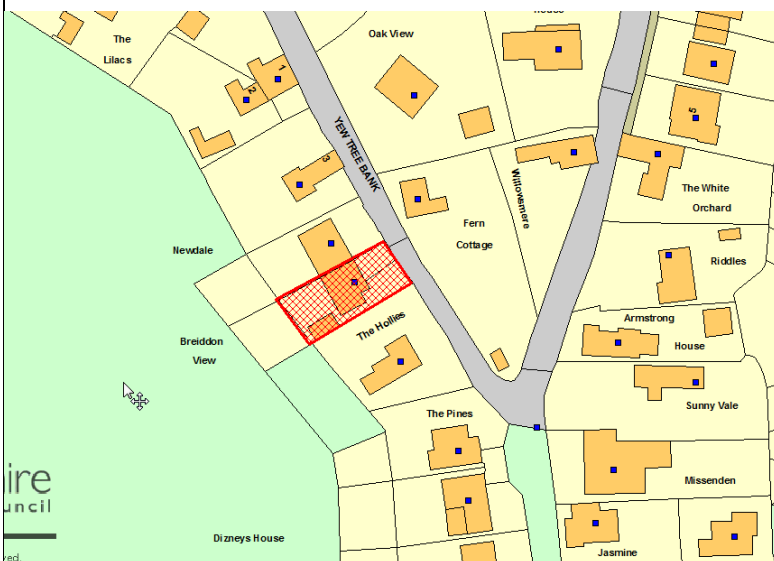
Development Management Report

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

Summary of Application

<u>Application Number:</u> 20/02503/HHE	<u>Parish:</u>	Bomere Heath
<u>Proposal:</u> Erection of a single storey rear extension to a semi-detached dwelling, dimensions 3.50 metres beyond the rear wall, 2.60 metres maximum height and 2.40 metres high to eaves		
<u>Site Address:</u> Breidden View Yew Tree Bank Bomere Heath Shrewsbury Shropshire		
<u>Applicant:</u> Mr Andrew Oliver		
<u>Case Officer:</u> Gemma Price	<u>email :</u> planning.northern@shropshire.gov.uk	

Grid Ref: 347229 - 319651



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Recommendation:- Approval.

The proposed extension falls within the criteria set out in Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 under paragraphs A1 (a) - (k) and A.2 (a) - (c) and is classed as 'permitted development' therefore prior approval is not required.

Subject to the following condition:

(a) The materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

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

REPORT

1.0	THE PROPOSAL
1.1	This application is seeking a legal determination for the above proposed development with the residential curtilage of the applicant's dwellings to be considered as 'Permitted Development' under the Town and Country Planning (General Permitted Development) Order, 2015, Schedule 2, Part 1.
1.2	The application is for a single storey rear extension to the existing semi-detached property beyond the rear wall by 3.50 metres, 2.60 metres maximum height and 2.40 metres high to eaves.
2.0	SITE LOCATION/DESCRIPTION
2.1	Breidden View is a semi-detached two storey dwelling located on Yew Tree Bank, Bomere Heath which is 4.66 miles North from the centre of Shrewsbury. The dwelling is set back from the Highway approximately 8.29 metres. The dwelling sits within a moderately sized plot.
3.0	REASON FOR DELEGATED DETERMINATION OF APPLICATION
3.1	The applicant is an employee of Shropshire Council within the Place Directorate. Therefore, under the terms of the scheme of delegation to officers, as set out in Part 8 of the Council Constitution, the application should be referred to planning committee for determination.
4.0	Community Representations

<p>4.1 4.1.1</p> <p>4.2 4.2.1</p>	<p>- Consultee Comments Bomere Heath Parish Council At an online meeting of BHPC on 8th July it was agreed to support the application</p> <p>- Public Comments – None received.</p>
<p>5.0</p>	<p>THE MAIN ISSUES</p>
	<ul style="list-style-type: none"> • Principle of development • Impact on amenities
<p>6.0</p>	<p>OFFICER APPRAISAL</p>
<p>6.1</p>	<p>Principle of development</p>
<p>6.1.1</p>	<p>Schedule 2, Part 1 of the GPDO 2015 involves development within the curtilage of a dwellinghouse, as previously mentioned for ‘prior approval’ of a proposed larger home extension, only Class A can be considered when deciding if development is permitted;</p> <p>Class A Permitted Development</p> <p>A. The enlargement, improvement or other alteration of a dwellinghouse.</p> <p>Development not Permitted</p> <p>A.1. Development is not permitted by Class A if –</p> <ul style="list-style-type: none"> (a) Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use); (b) As a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse); (c) The height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse; (d) The height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse; (e) The enlarged part of the dwellinghouse would extend beyond a wall which – <ul style="list-style-type: none"> (i) Forms the principal elevation of the original dwellinghouse; or (ii) Fronts a highway and forms a side elevation of the original dwellinghouse; (f) Subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and – <ul style="list-style-type: none"> (i) Extend beyond the rear wall of the original dwellinghouse by more than 4 metres of a detached dwellinghouse, or 3 metres in the

	<p>case of any other dwellinghouse, or</p> <ul style="list-style-type: none"> (ii) Exceed 4 metres in height; <p>(g) Until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have single storey and –</p> <ul style="list-style-type: none"> (i) Extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, (ii) Exceed 4 metres in height <p>(h) The enlarged part of the dwellinghouse would have more than a single storey and –</p> <ul style="list-style-type: none"> (i) Extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or (ii) Be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse; <p>(i) The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;</p> <p>(j) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would –</p> <ul style="list-style-type: none"> (i) Exceed 4 metres in height, (ii) Have more than a single storey, or, (iii) Have a width greater than half the width of the original dwellinghouse; or <p>(k) It would consist of or include –</p> <ul style="list-style-type: none"> (i) The construction or provision of a verandah, balcony or raised platform, (ii) The installation, alteration or replacement of a microwave antenna, (iii) The installation, alteration or replacement of a chimney, flue or soil and vent pipe, or (iv) An alteration to any part of the roof of the dwellinghouse.
6.1.2	<p>The proposed development is a single storey extension protruding off the rear elevation of the original dwelling and providing additional internal accommodation. The extension will extend beyond the rear elevation by approximately 3.50m, with a maximum height of 2.60m. and 2.40m high to eaves. The extension will be constructed of materials like those used on the original dwelling.</p>
6.2.1	<p>The extension will be sited on the North-West boundary, does not extend beyond the side elevation of the original dwelling and remains lower than the original in both its eaves and ridge height – the original dwelling is two-stories.</p>
6.3	<p>Impact on amenities</p>
6.3.1	<p>It is considered that the proposed development will have a minimal impact on the amenities enjoyed by neighbouring occupants due to both its scale and siting. As the extension is to the rear and is single storey in height, it will remain hidden from the street scene, protecting neighbour's privacy and will pose no harm due to overlooking or overbearingness. The proposal will remain sympathetic to the original dwelling and remain in-keeping within its locality.</p>

6.3.2	Furthermore, no public representations raising concern/objecting to the development from the adjoining neighbours were received. This with the above, results in this application not requiring prior approval in relation to its impact on neighbouring amenities.
7.0	CONCLUSION
	Whilst it is acknowledged that the Council's constitution and the scheme of delegation requires this application to be referred to Planning Committee for consideration, planning permission will not be required for the proposed development as it meets the criteria set out in Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order, 2015 (as amended) and is to be considered as permitted development. The proposal is considered to protect the amenities of those of neighbouring residents and will pose no harm to its surroundings. As a result, it is advised that prior approval is not required.
8.0	Risk Assessment and Opportunities Appraisal
8.1	Risk Management
	<p>There are two principal risks associated with this recommendation as follows:</p> <ul style="list-style-type: none"> • 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. <p>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.</p>
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

	<p>the County in the interests of the Community.</p> <p>First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.</p> <p>This legislation has been taken into account in arriving at the above recommendation.</p>
8.3	Equalities
	<p>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.</p>
9.0	Financial Implications
	<p>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.</p>

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

20/02503/HHE Erection of a single storey rear extension to a semi-detached dwelling, dimensions 3.50 metres beyond the rear wall, 2.60 metres maximum height and 2.40 metres high to eaves AEHHE 29th July 2020

SA/82/0716 Alterations to change the use of 2 no. semi-detached houses into accommodation for 4 no. elderly persons, and retain part for private residential use. REFUSE 12th October 1982

Appeal

SA/APP/0274/ENF Breidden View, Yew Tree Bank, Bomere Heath, Shrewsbury, SY4 3PJ
INPROG

11. Additional Information

[View details online:](#)

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

The proposed extension falls within the criteria set out in Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 under paragraphs A1 (a) - (k) and A.2 (a) - (c) and is classed as 'permitted development' therefore prior approval is not required.

Subject to the following condition:

(a) The materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

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

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Committee and Date
Northern Planning Committee
18th August 2020

Item
10
Public

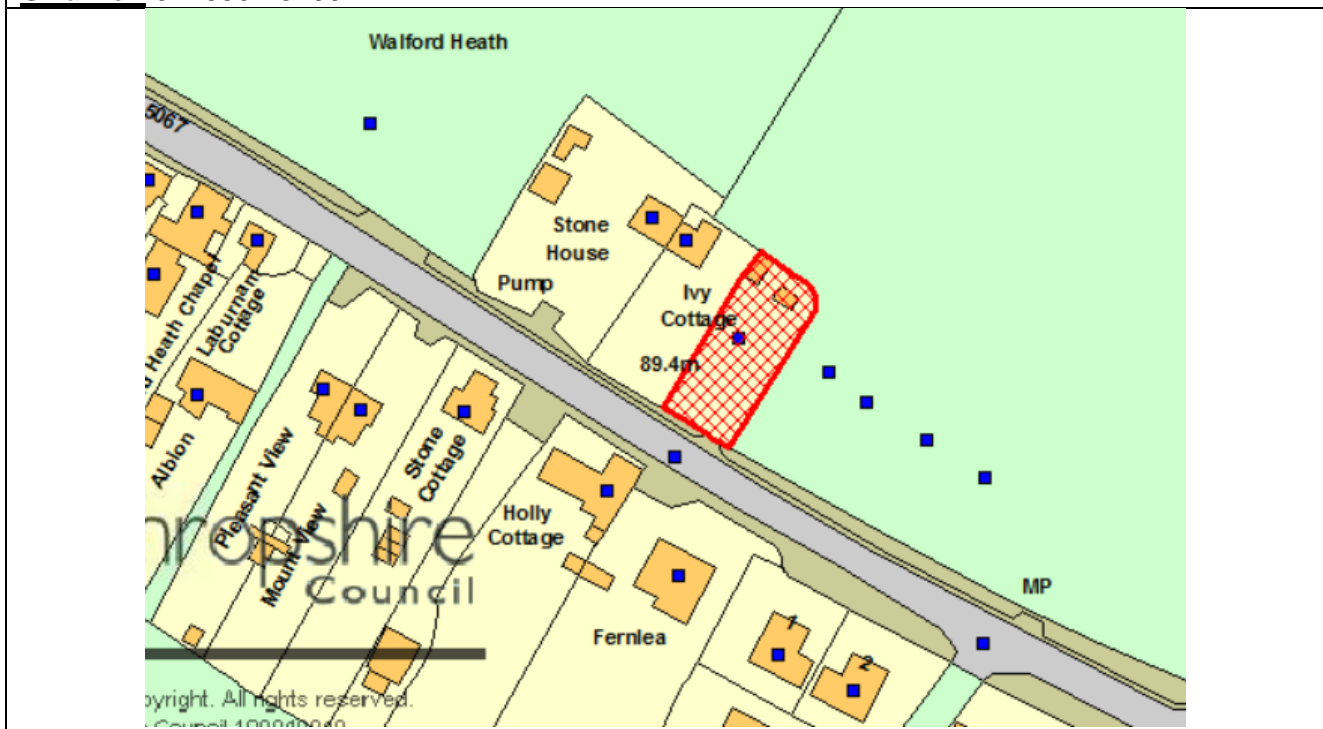
Development Management Report

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

Summary of Application

<u>Application Number:</u> 20/01374/FUL	<u>Parish:</u>	Bomere Heath
<u>Proposal:</u> Erection of one detached dwelling and alterations to existing vehicular access		
<u>Site Address:</u> Proposed Dwelling to the east of Ivy Cottage, Walford Heath, Shrewsbury, Shropshire.		
<u>Applicant:</u> Mr. Nicholas		
<u>Case Officer:</u> Mark Perry	<u>email:</u> planning.northern@shropshire.gov.uk	

Grid Ref: 344690 - 319977



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

REPORT

1.0 THE PROPOSAL

- 1.1 Application is made in 'full' and proposes erection of one detached dwelling and alterations to existing vehicular access on land to the east of Ivy Cottage Walford Heath, Shrewsbury.
- 1.2 Application is accompanied by a site location plan, block plan, proposed elevation and floor plans justifying the proposed development. During the application processing amended plans were received indicating a dwelling of reduced scale and mass.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site forms part of the residential curtilage to Ivy Cottage which is a semi-detached two-storey dwelling. The application site is to the east of this dwelling and to the east of the application site are other recently constructed detached dwellings. To the rear of the site is open farmland. A public highway (B5067), runs past the site's frontage and on opposite side of this highway are other detached dwellings.
- 2.2 Application proposes a detached two storey dwelling making use of the roof space for the second floor which will contain three bedrooms.
- 2.3 This application is a resubmission of planning application 19/04589/FUL which was refused by the Council on the 31st January 2020 for the following reason:

'The proposed detached dwelling is of a size and scale disproportionate to the application site and its surroundings, whereby the width of the dwelling, forward of the host dwelling, would dominate and be overly prominent within the streetscene, being harmful to the character and setting of the host dwelling, a historic dwelling that currently enjoys a large degree of openness. Furthermore, the proposed design and appearance of the dwelling is largely unsympathetic in regard to the traditional sandstone cottage, Ivy Cottage, and the open countryside beyond. Whilst a varying style and form is generally acceptable within this streetscene, the proposal fails to incorporate or acknowledge the proportions or detailing of surrounding properties. The proposal therefore is unable to comply with Local Development Plan policies CS6 and CS17 of the Adopted Core Strategy and MD2, MD12 and MD13 of the SAMDev Plan, in addition to Sections, 12, 15 and 16 of the NPPF.'

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application does not comply with the scheme of delegation as the Local Parish Council raises objections, (Baschurch), which the Chair and Vice consider are material considerations that warrant consideration of the application at Committee.

4.0 **Community Representations**

Baschurch Parish Council has responded to the application indicating:

Baschurch Parish Council object to the application with the same grounds as previously given in applications 18/02159/FUL submitted on 5th June 2018 and application 19/04589/FUL.

Previous comments as follows:

"Walford Heath is part of a community cluster within SAMDEV expected to deliver sixteen residential properties within the current plan until 2012 shared across the hamlets of Walford Heath, Merrington and Old Woods. Existing permission granted or built at Walford have alone met this obligation. The addition of further building is not justified or needed.

The proposed development is neither affordable nor on a brownfield site and is a size and type already in surplus in the area.

Shropshire Council already has 5.97 years of land supply to meet its obligations under SAM DEV national planning policy for sustainable development, exceeding its five year target.

We would draw attention to the planning officer's reasons for refusing planning permission on the recent nearby application 17/03587/OUT, in particular.

"Any additional development atop of the figure has real potential to significantly and adversely impact upon the local infrastructure and community goodwill. Despite the presumption in favour of sustainable development, there are no considerable benefits that materially outweigh the negatives arisen from its non-compliance with MD1, MD3 and S16(xv) of the SAM Dev Plan".

The above is also borne out by the officer's report on refusal of 17/01055 which is also still relevant and material to this application.

As part of the refusal for 15/02411/FUL for a single dwelling at Walford Heath, it was recognised by the officer's report that although there is a 40MPH speed limit, the speed limit is rarely adhered to. There has been little work to improve the highway safety and reduce speeds through Walford Heath and the speed limit is very rarely enforced. Baschurch Parish Council believe that the addition of any further dwellings with egress onto the highway is inappropriate and could cause further compromise to dwellings already experiencing issues with safe highway access and visibility.

As part of the Local Plan Partial Review to 2036, Bomere Heath Parish Council requested that Walford Heath be removed from Community Cluster status and put back into open countryside.

This was because the pattern of development had not been manageable and had resulted in development too quickly and in undesirable locations, which did not meet local needs. Shropshire Council has acknowledged this and Baschurch

Parish Council supports and understands the decision made by our adjoining Parish Council.

As significant reliance has previously been made on emerging plans, this emerging plan should also be afforded considerable weight, especially when considering that the previous plan numbers have already been exceeded.

Consultee Comments

SC Affordable Housing have responded indicating:

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

SC Drainage have responded indicating:

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

Condition:

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).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

Informative Notes:

- 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 are not feasible, drainage calculations should limit the discharge rate from the site equivalent to 5.0 l/s runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any other 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 runoff from the new access run onto the highway.*
- 3. On the Surface Water Flood Map, part of the site is at risk of surface water flooding. The applicant should ensure that the finished floor level is set above any known flood level or at least 300mm above the ground level.*

4. The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2. If main foul sewer is not available for connection, full details, plan and sizing of the proposed septic tank/ package sewage treatment plant including percolation tests for the drainage field should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water Flows and Loads: 4 should be used to determine the loading for the septic tank/ package sewage treatment plant and the sizing of the septic tank/ package sewage treatment plant and drainage fields should be designed to cater for the correct number of persons and in accordance with the Building Regulations H2. These documents should also be used if other form of treatment on site is proposed.

SC Highways have responded indicating:

No Objection – subject to the development being constructed in accordance with the approved details, and the following conditions & informatives.

Observations/Comments:

The proposed development seeks to erect a single dwelling within the boundary of Ivy Cottage, Walford Heath. Access is existing from the B5067 which is governed by a local 40 mph speed limit. As part of the development the access is to be widened and adequate parking and turning provided for both dwellings.

Conditions:

Access: The development hereby permitted shall not be brought into use until the improvements to the existing access have been completed. The space shall be maintained thereafter free of any impediment to its designated use. Reason: To provide a safe access to the development in the interests of highway safety. Parking and Turning The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use. Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area. Hedge/Boundary: Any hedge or other boundary treatment fronting onto the public highway is to be kept at a height of 900mm at all times. Reason: To ensure the provision of adequate visibility in the interests of pedestrian and highway safety.

Access Apron

The widened access apron shall be constructed in accordance with the Council's specification currently in force and shall be fully implemented prior to the development being brought into use.

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

Informatives: Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or*
- carry out any works within the publicly maintained highway, or*

☐ *authorise the laying of private apparatus within the confines of the public highway including any new utility connection, or undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway*
The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details
<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required. No drainage to discharge to highway Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Waste Collection

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e. wheelie bins & recycling boxes). Specific consideration must be given to kerbside collection points, in order to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycleways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.
<https://shropshire.gov.uk/media/2241/supplementary-planning-guidance-domestic-waste-storage-and-collection.pdf>

Public Comments

At the time of writing this report thirteen letters of objections have been received from ☐ members of the public. Key planning issues raised can be summarised as follows:

- ☐ Development does not represent sustainable development.
Highway and transportation concerns
- ☐ The settlement concerned has exceeded its housing guidelines for the planning period of the local plan.
- ☐ Scale, mass and design of the proposed dwelling is not reflective of local character.
Drainage issues.

5.0 THE MAIN ISSUES

- ☐ Principle of development
- ☐ Siting, scale and design of structure
- ☐ Visual impact and landscaping
- ☐ Highway Safety
Drainage and flooding
Neighbour amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The application site forms part of the side garden space to Ivy Cottage, a semi-detached dwelling located adjacent to the rural settlement of Walford Heath. Whilst the semi-detached pair of dwellings are on the opposing side of the highway to the main built pattern of the settlement, due to their age they have a strong social and physical connection to the settlement core, whereby the sub-division of existing dwellings, regardless of their location, can be acceptable.

6.1.2 Walford Heath is a rural village that has been identified for sustainable growth throughout the local plan period, until 2026. With S16.2(xv) of the SAMDev Plan providing:

“Walford Heath is a Community Cluster settlement in Pimhill Parish where development by limited infilling/conversions of buildings may be acceptable, with a housing guideline of approximately 6 dwellings over the period to 2026, in addition to the 10 already approved.”

6.1.3 Despite being visually within Walford Heath the site does in fact fall with a different Parish to most of the village. The boundary between Pimhill and Baschurch Parishes runs through the site. However, the application site does fall mainly within the Baschurch Parish.

6.1.4 This application is a re-submission of, ref: 19/04589/FUL, which was refused for the reasons set out above. In recent years the characteristics of the site and surroundings have altered with the introduction of four recently completed detached dwellings adjoining the south-west boundary. Resultantly, the application site is now regarded as constituting an infill plot, in that the development of this plot would result in the closing up of a small gap within the existing built pattern and adjoined by neighbouring residential development on its side boundaries, showing a continuation of the built environment. The application site now complies with the settlement policy.

6.1.6 Like the previous applications there has been strong public objection to this application, citing concerns of overdevelopment and lack of services and facilities. The settlement has nonetheless been identified as a Community Cluster, in which and in association with surrounding settlements is able to accommodate sustainable additional growth. So, a lack of services and facilities in the immediate Walford Heath is not a substantive reason for refusal. The sub-division of an existing large residential curtilage would not represent an unacceptable encroachment of countryside and a modest dwelling in this plot would not represent overdevelopment and could supplement the street scene in providing a continuation of development.

6.1.7 On the above basis, the principle of development can be both established and supported.

6.2 Siting, scale and design of structure

6.2.1 With consideration to the amended plans received, the proposed dwelling sited on the existing garden land and forming an infill plot, between historic cottages to one side and modern dwellings to the other, the visual impact of the proposal is considered low. The site is occupied by a range of outbuildings, the site makes little contribution to the wider landscape setting, with the presence of a new dwelling and maintained gardens and rationalised outbuildings providing a betterment to the immediate visual amenities.

6.2.2 Since the previous refusal the scale of the dwelling has been significantly reduced and its character is now one that is more rural in its character and more closely connected in scale and mass to the dwelling within whose curtilage the site is located within. The proposed dwelling is one and a half storeys with dormer windows to the front and rear roof slopes and an open fronted porch over the front door. Height of the dwelling in relation to the surrounding street scene considered acceptable. One of the concerns with the plans as submitted was the depth of the proposed dwelling, this has now in accordance with the amended plans been reduced from 7.5 metres to 5.6 metres which is considered acceptable in relation to the surrounding built environment which includes reference to the dwelling within whose curtilage the application site is located.

6.2.3 Overall it is considered that the character of the proposed dwelling and its scale is now much more appropriate when compared to the previously refused scheme. It is considered that the proposal would now integrate more acceptably with the surrounding development which comprises traditional cottages and modern development.

6.2.4 The adjacent Ivy Cottage to the west sits towards the rear of its plot creating a long front garden. The new dwellings to the east are much closer to the road; set back just far enough to accommodate the access road and driveways. The dwelling proposed would be midway between the differing positions of the neighbouring dwelling to create a more gradual change to the alignment of the dwellings in relation to the road.

6.2.5 On the opposing side of the highway lies a dormer bungalow, traditional brick builds and painted brick builds. The surrounding style and form is varied, differing from plot to plot. As a result of this, there is no prevalent dwelling type.

6.2.6 It is considered that the proposed dwelling, as revised, is of an appropriate scale and appearance with adequate separation from the side boundaries. The proposed dwelling is now sympathetic to the host dwelling and the overall street scene. In order to preserve the built form of the site and potential impacts on the surrounding area, it is recommended permitted development rights are removed in relation to curtilage development. This will not necessarily prevent development within the curtilage of the dwelling, but will enable Local Planning Authority control over future development. (Development would need to reflect the scale and character of the dwelling it will be associated to).

6.3 **Highways and access**

- 6.3.1 The proposed dwelling will be served by the existing access that serves Ivy Cottage, leading off the B5057 and providing a shared access point and driveway. The immediate highway section, through the village, is governed by a local 40 mph speed limit and as part of the development the existing access is to be widened and the parking and turning area increased to provide adequate space for both dwelling.
- 6.3.2 The existing access will be shared with the existing dwelling and parking and turning spaces provided for both properties. The submitted plan does show a large expanse of driveway but it is considered that this could be mitigated by appropriate landscaping.
- 6.3.3 The public comments in regard to highway safety, speeds and vehicle movements are acknowledged. However, the introduction of a single dwelling and its associated vehicle movements and utilising an existing access point are not considered to exacerbate the highway conditions. Instead, the issue of highway safety would be more appropriately addressed through calming measures, as the issue is with passing vehicles and not residents.
- 6.3.4 No objections have been raised by the Council's Highways Team with regards to highway safety.

6.4 **Flooding and Drainage**

- 6.4.1 Details of the surface and foul water drainage have been submitted to show surface water directed into a newly proposed soakaway and silt trap under the permeable gravel driveway, with foul water disposed of via a new connection into the mains sewer. Both arrangements are acceptable.
- 6.4.2 The site lies in Flood Zone 1 only and is at a very low risk of surface water flooding.

6.5 **Impact on Neighbour Amenity**

- 6.5.1 The proposed development is not considered to adversely impact upon those amenities enjoyed by neighbouring residents. The host dwelling private garden space is reduced by half, with very little rear garden; however, Ivy Cottage has never had substantial rear garden space, owing to its positioning right at the rear of its plot.

7.0 **CONCLUSION**

- 7.1 The proposed detached, one and a half storey dwelling would be within an identified settlement for new development and the plot is able to constitute an infill plot in accordance with the settlement specific policy. The proposed dwelling is of a scale that is proportionate to the site and its surroundings and is of a design, scale and style that is sympathetic for its location.
- 7.2 The proposed development is considered to comply with Local Development Plan policies CS6 and CS17 of the Adopted Core Strategy and MD2, MD12 and DM13 of the SAMDev Plan and it is recommended that permission be approved, subject to the conditions as attached in appendix one to this report.

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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

18/04420/FUL Erection of four detached dwellings with detached garages; formation of estate roads and formation of new vehicular access (modification to previously approved) REFUSE 4th February 2019

18/04651/FUL Erection of two storey extension to side elevation GRANT 4th January 2019

19/04589/FUL Erection of one detached dwelling and alterations to existing vehicular access REFUSE 31st January 2020

20/01374/FUL Erection of one detached dwelling and alterations to existing vehicular access PDE

18/02159/FUL Erection of one detached dwelling WDN 20th June 2018

19/04589/FUL Erection of one detached dwelling and alterations to existing vehicular access REFUSE 31st January 2020

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Councillor Gwilym Butler

Local Members Cllr Nick Bardsley Cllr Lezley Picton

Appendices APPENDIX 1 - Conditions
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STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

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

4. Notwithstanding the details shown on the submitted block plan, no above ground works shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape

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

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

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

6. The widened access apron shall be constructed in accordance with the Council's specification currently in force and shall be fully implemented prior to the development being brought into use.

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

7. Any hedge or any other boundary treatment fronting onto the public highway is to be kept at a height of 900mm at all times.

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

8. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

9. The development hereby permitted shall not be brought into use until the improvements to the existing access have been completed. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To provide a safe access to the development in the interests of highway safety.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 Part 1 class; E shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development site and to safeguard residential and visual amenities.

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<u>Committee and Date</u>
Northern Planning Committee
18 th August 2020

<u>Item</u>
11
Public

SCHEDULE OF APPEALS AS AT COMMITTEE 18th August 2020

APPEALS LODGED

LPA reference	19/04814/DSA106
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs F Dutton
Proposal	Discharge of S106 agreement attached to planning permission reference 12/01289/FUL
Location	The Old Chapel 71 Shropshire Street Market Drayton
Date of appeal	16.06.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/04787/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr And Mrs DM And JR Parry
Proposal	Change of use of land from agricultural to tourism use for the siting of four shepherds huts, construction of vehicular parking and all associated works
Location	Coedygaer Llansilin Oswestry SY10 9BU
Date of appeal	
Appeal method	Written Representations
Date site visit	
Date of appeal decision	23.06.2020
Costs awarded	
Appeal decision	

APPEALS DETERMINED

LPA reference	19/02331/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Tony Heals
Proposal	Siting of a single caravan for use as a temporary agricultural workers dwelling (Re-Submission)
Location	Coolmoor Farm Hazels Road Shawbury
Date of appeal	26.06.2020
Appeal method	Hearing
Date site visit	26.06.2020
Date of appeal decision	17.07.2020
Costs awarded	
Appeal decision	APPEAL ALLOWED

LPA reference	19/02332/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Tony Heals
Proposal	Siting of a single caravan for use as a temporary agricultural workers dwelling (Re-Submission)
Location	The Hazles Hazles Road Shawbury
Date of appeal	26.06.2020
Appeal method	Hearing
Date site visit	20.06.2020
Date of appeal decision	17.07.2020
Costs awarded	
Appeal decision	APPEAL ALLOWED



Appeal Decision

Hearing Held on 26 June 2020

Site visit made on 26 June 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2020

Appeal Ref: APP/L3245/W/20/3247409

Coolmoor Farm, Hazles Road, Shawbury, Shropshire SY4 4HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Heal Eggs against the decision of Shropshire Council.
 - The application Ref 19/02331/FUL, dated 23 May 2019, was refused by notice dated 12 November 2019.
 - The development proposed is the erection of a temporary agricultural workers dwelling at Coolmoor Farm.
-

Decision

1. The appeal is allowed and planning permission is granted for the siting of a single caravan for use as a temporary agricultural workers dwelling at Coolmoor Farm, Hazles Road, Shawbury, Shropshire SY4 4HE in accordance with the terms of the application, Ref 19/02331/FUL, dated 23 May 2019, subject to the following conditions:
 - 1) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
 - 2) The mobile home hereby permitted shall be removed and the land restored to its former condition on or before 3 years from the date of this permission in accordance with a scheme of work first submitted to and approved in writing by the Local Planning Authority.

Procedural Matters

2. The Appellants description of the proposal is for the erection of a temporary agricultural workers dwelling whereas the Council have described the proposal as the siting of a single caravan for use as a temporary agricultural workers dwelling.
3. Given that the proposal is for a mobile home, case law indicates that for such accommodation it is the siting of the mobile home which is the development itself I have utilised the Councils description in my decision.
4. In addition to the above, at the hearing it was confirmed that a mobile home had already been sited at the appeal farm, and that the proposal was in effect to retain this.

Main Issue

5. The main issue is whether there is an essential functional need for an agricultural worker to live on the site.

Reasons

6. The appeal site is located to the north of Hazles Road down an access driveway. The poultry unit consists of a single building which accommodates around 64,000 birds. The temporary agricultural dwelling (mobile home) has been sited to the south of the main building opposite a small parking area.
7. It is common ground between the main parties that the poultry unit could financially support the temporary dwelling and I have no reason to disagree with that view. The key issue is therefore whether there is a need for an agricultural worker to be on-site rather than being located at other nearby premises' or further away in a nearby village such as Shawbury.
8. The Appellant has set out that there are currently two full-time workers employed at the egg laying unit. From the evidence before me there are a number of daily tasks carried out which includes checking for fallen stock at regular intervals, checks of the birds and systems, checking of feeders and water, collection of floor eggs, as well as grading, cleaning and counting the eggs. Other tasks include essential equipment maintenance/checks and mucking out. The core job hours are generally 07:30 until 15:30 daily.
9. In addition to these tasks/hours, further checks are required at 18:30 and 21:00 including ensuring that the birds go back into the unit at night so that they are not at risk of predators.
10. The egg unit has various automated systems including an alarm system which send out alerts when something goes amiss. This could include issues with ventilation, temperature and food/water provision.
11. The Appellants evidence, and that outlined at the hearing, confirmed that the alarm systems can go off a number of times a week for varying reasons, some of which may be false alarms. However, there is no set pattern for these alarms and when an emergency does occur there is often a small window of opportunity to resolve a problem before birds begin to huddle and suffocate. This time period can be as little as 5 minutes.
12. In addition to the above, it was also outlined at the hearing that not all matters would trigger an alarm, and this could include noise from helicopters from the nearby RAF Shawbury airfield. Such noise has the potential to cause panic amongst the birds.
13. Therefore, in my view, it is clear that in such events a quick response time is paramount to ensure that there is not a loss of birds which could be on a very large scale. Realistically, this can only be achieved by having a worker on site to be able to deal with such unforeseen circumstances.
14. Whilst during the normal working day such matters could be managed without the need for an on-site dwelling, the same cannot be said for times outside of the normal working hours. In coming to that view, I acknowledge that the technology which is available today is a valuable tool in managing the flock.

However, it is also clear that such technology is not a substitute for suitably trained poultry workers.

15. As I have already noted, given that the time scale for a response can be critical, even a short journey time (together with the additional time needed for the necessary bio-security measures required for employees who live off site), could be the difference between dealing with an issue in a timely manner and a serious loss of stock.
16. The Council have drawn my attention to the locations of the staff which are employed by Heal Eggs and those persons who are contacted by the automated alarm system from the call out log book supplied by the Appellant. At the present time, none of these persons are located on-site. That said, they also cover the other Egg laying units within the wider business. It was also explained at the hearing that some matters are dealt with by the employees who currently live on site in the mobile home at the egg laying unit.
17. Whilst it is clear that some instances can be dealt with by persons off site, this is not the case for all events requiring action. Indeed, at the hearing a very recent example of a loss of around 1000 birds was outlined.
18. In order to swiftly deal with any issues, and in response to the visual and audible alarm systems, it is clear to me that such a property needs to be in sight and sound of the egg laying unit.
19. From the evidence before me, and what I observed at my site visit, Coolmoor Farm house is visible from the chicken shed at a distance of around 350 metres. However, at that distance, any audible alarm would not be heard if the wind was blowing away from the dwelling. Furthermore, there are no other existing properties which could fulfil the need to be within sight and sound of the unit.
20. The Appellant has drawn my attention to an appeal decision at Daisy Bank Farm in Broomhill¹ which was for an agricultural workers' dwelling at a free-range egg production unit. Whilst this decision relates to an egg production unit which a greater number of birds than the current appeal proposal, this decision further re-enforces my view that there is a need for on-site presence.
21. For the above reasons, it has been sufficiently demonstrated that there is a need for a temporary agricultural workers dwelling at the appeal site and the proposal therefore accords with Policies CS5 and CS6 of the Shropshire Local Development Framework Core Strategy (2011) and Policy MD7a of the Site Allocation and Management of Development (SAMDev) Plan (2015) which amongst other matters seek to strictly control new development in the countryside in accordance with national planning policies and support new residential properties where they are for essential countryside workers and that an essential need has been demonstrated. It would also accord with the overarching aims of the National Planning Policy Framework.

Conditions

22. The Council has suggested two planning conditions that it considers would be appropriate in the event that I allow the appeal. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure

¹ Reference APP/R0660/W/19/3236598 dated 26 November 2019

compliance with the PPG, I have amended some of the Council's suggested wording.

23. Given that the justification for the dwelling is on the basis of the agricultural need of the enterprise, a condition is necessary to ensure that it is only occupied by persons working or last working in agriculture.
24. Given that the mobile home is sited in proximity to the chicken shed, and that the development is only intended to be a temporary dwelling (which the appellant has stated should be for a 3 year period), a condition is also necessary to ensure that it is removed after the period applied for.

Conclusion

25. Taking all matters into consideration, I conclude that the appeal should be allowed.

Chris Forrett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mandy Seedhouse	Berrys - Senior Planning Consultant
Tony Heal	Heal Eggs - Appellant

FOR THE LOCAL PLANNING AUTHORITY

Richard Denison	Technical Specialist Planning Officer
Philip Mullineux	Principal Planning Officer

DOCUMENTS submitted at the Hearing

1. Appeal decision APP/R0660/W/19/3236598 dated 26 November 2019
2. Heal Eggs existing accommodation and distance from poultry units map



Appeal Decision

Hearing Held on 26 June 2020

Site visit made on 26 June 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2020

Appeal Ref: APP/L3245/W/20/3247412

The Hazles Farm, Hazles Road, Shawbury, Shropshire SY4 4HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Heal Eggs against the decision of Shropshire Council.
 - The application Ref 19/02332/FUL, dated 23 May 2019, was refused by notice dated 11 November 2019.
 - The development proposed is a temporary agricultural dwelling at the Hazles Poultry Unit.
-

Decision

1. The appeal is allowed and planning permission is granted for a temporary agricultural dwelling at the Hazles Poultry Unit at The Hazles Farm, Hazles Road, Shawbury, Shropshire SY4 4HE in accordance with the terms of the application, Ref 19/02332/FUL, dated 23 May 2019, subject to the following conditions:
 - 1) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
 - 2) The mobile home hereby permitted shall be removed and the land restored to its former condition on or before 3 years from the date of this permission in accordance with a scheme of work first submitted to and approved in writing by the Local Planning Authority.

Procedural Matter

2. The temporary agricultural dwelling is shown on the plans as being sited broadly in line with the ends of each of the two wings of the building to the west of the access driveway. At the hearing it was confirmed that a mobile home had already been sited at the appeal farm, and that the proposal was in effect to retain this.
3. However, at my site visit I saw that the mobile home was sited outside of the defined application site. Therefore, as agreed with the parties at the site visit, I have determined the appeal on the basis of the plans submitted as part of the application.

Main Issue

4. The main issue is whether there is an essential functional need for an agricultural worker to live on the site.

Reasons

5. The appeal site is located to the north of Hazles Road down an access driveway. The poultry unit consists of two main sheds set perpendicular to one another with a small link between the two sheds. In total, the unit has around 64,000 birds.
6. It is common ground between the main parties that the poultry unit could financially support the temporary dwelling and I have no reason to disagree with that view. The key issue is therefore whether there is a need for an agricultural worker to be on-site rather than being located at other nearby premises' or further away in a nearby village such as Shawbury.
7. The Appellant has set out that there are currently two full-time workers employed at the egg laying unit. From the evidence before me there are a number of daily tasks carried out which includes checking for fallen stock at regular intervals, checks of the birds and systems, checking of feeders and water, collection of floor eggs, as well as grading, cleaning and counting the eggs. Other tasks include essential equipment maintenance/checks and mucking out. The core job hours are generally 07:30 until 15:30 daily.
8. In addition to these tasks/hours, further checks are required at 18:30 and 21:00 including ensuring that the birds go back into the unit at night so that they are not at risk of predators.
9. The egg unit has various automated systems including an alarm system which send out alerts when something goes amiss. This could include issues with ventilation, temperature and food/water provision.
10. The Appellants evidence, and that outlined at the hearing, confirmed that the alarm systems can go off a number of times a week for varying reasons, some of which may be false alarms. However, there is no set pattern for these alarms and when an emergency does occur there is often a small window of opportunity to resolve a problem before birds begin to huddle and suffocate. This time period can be as little as 5 minutes.
11. In addition to the above, it was also outlined at the hearing that not all matters would trigger an alarm, and this could include noise from helicopters from the nearby RAF Shawbury airfield. Such noise has the potential to cause panic amongst the birds.
12. Therefore, in my view, it is clear that in such events a quick response time is paramount to ensure that there is not a loss of birds which could be on a very large scale. Realistically, this can only be achieved by having a worker on site to be able to deal with such unforeseen circumstances.
13. Whilst during the normal working day such matters could be managed without the need for an on-site dwelling, the same cannot be said for times outside of the normal working hours. In coming to that view, I acknowledge that the technology which is available today is a valuable tool in managing the flock.

However, it is also clear that such technology is not a substitute for suitably trained poultry workers.

14. As I have already noted, given that the time scale for a response can be critical, even a short journey time (together with the additional time needed for the necessary bio-security measures required for employees who live off site), could be the difference between dealing with an issue in a timely manner and a serious loss of stock.
15. The Council have drawn my attention to the locations of the staff which are employed by Heal Eggs and those persons who are contacted by the automated alarm system from the call out log book supplied by the Appellant. At the present time, none of these persons are located on-site. That said, they also cover the other Egg laying units within the wider business. It was also explained at the hearing that some matters are dealt with by the employees who currently live on site in the mobile home at the egg laying unit.
16. Whilst it is clear that some instances can be dealt with by persons off site, this is not the case for all events requiring action. Indeed, at the hearing a very recent example of a loss of around 1000 birds was outlined.
17. In order to swiftly deal with any issues, and in response to the visual and audible alarm systems, it is clear to me that such a property needs to be in sight and sound of the egg laying unit. From the evidence before me, and what I observed at my site visit, there are no existing properties which could fulfil this need.
18. The Appellant has drawn my attention to an appeal decision at Daisy Bank Farm in Broomhill¹ which was for an agricultural workers' dwelling at a free-range egg production unit. Whilst this decision relates to an egg production unit which is larger than the current appeal proposal, this decision further re-enforces my view that there is a need for an on-site presence.
19. For the above reasons, it has been sufficiently demonstrated that there is a need for a temporary agricultural workers dwelling at the appeal site and the proposal therefore accords with Policies CS5 and CS6 of the Shropshire Local Development Framework Core Strategy (2011) and Policy MD7a of the Site Allocation and Management of Development (SAMDev) Plan (2015) which amongst other matters seek to strictly control new development in the countryside in accordance with national planning policies and support new residential properties where they are for essential countryside workers and that an essential need has been demonstrated. It would also accord with the overarching aims of the National Planning Policy Framework.

Conditions

20. The Council has suggested two planning conditions that it considers would be appropriate in the event that I allow the appeal. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.

¹ Reference APP/R0660/W/19/3236598 dated 26 November 2019

21. Given that the justification for the dwelling is on the basis of the agricultural need of the enterprise, a condition is necessary to ensure that it is only occupied by persons working or last working in agriculture.
22. Given that the mobile home is sited in proximity to the chicken sheds, and that the development is only intended to be a temporary dwelling (which the appellant has stated should be for a 3 year period), a condition is also necessary to ensure that it is removed after the period applied for.

Conclusion

23. Taking all matters into consideration, I conclude that the appeal should be allowed.

Chris Forrett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mandy Seedhouse	Berrys - Senior Planning Consultant
Tony Heal	Appellant

FOR THE LOCAL PLANNING AUTHORITY

Richard Denison	Technical Specialist Planning Officer
Philip Mullineux	Principal Planning Officer

DOCUMENTS submitted at the Hearing

1. Appeal decision APP/R0660/W/19/3236598 dated 26 November 2019
2. Heal Eggs existing accommodation and distance from poultry units map