

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

Date: Monday, 7 September 2020

Committee: Northern Planning Committee

Date: Tuesday, 15 September 2020

Time: 2.00 pm

Venue: THIS IS A VIRTUAL MEETING - PLEASE USE THE LINK ON THE AGENDA TO LISTEN TO THE MEETING

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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 (Pages 1 - 6)

To confirm the Minutes of the meeting of the North Planning Committee held on 18th August 2020, attached, marked 2.

Contact: Tim Ward on 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 2.00 p.m. on Friday, 11th September.

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 26 Conway Drive, Shrewsbury, SY2 5UB (20/02355/FUL) (Pages 7 - 18)

Erection of first floor extension to northeast (front) elevation; elevational alterations to facilitate the use of integral garage as residential use

6 Proposed Dwelling South Of Four Ashes Farm, Maesbrook, Shropshire (20/02256/OUT) (Pages 19 - 34)

Outline application for the erection of a single dwelling, with associated garaging (to include access and siting)

7 8 Shoplatch, Shrewsbury, SY1 1HF (20/02490/COU) (Pages 35 - 42)

Application under Section 73a of the Town and Country Planning Act 1995 for the retrospective change of use from A3 (cafes/restaurants) to combined A3/A5 (cafe/restaurant/hot food takeaway)

8 45 Belvidere Road, Shrewsbury, SY2 5LX (20/02543/FUL) (Pages 43 - 50)

Erection of single storey garage extension

9 Proposed Residential Development Land Off Rosehill Road, Stoke Heath, Shropshire (20/02727/FUL) (Pages 51 - 64)

Erection of 1no dwelling and alteration to existing vehicular access

10 Appeals and Appeal Decisions (Pages 65 - 84)

11 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday, 13th October 2020.

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Committee and Date

Northern Planning Committee

INSERT NEXT MEETING DATE

NORTHERN PLANNING COMMITTEE

Minutes of the meeting held on 18 August 2020

Virtual meeting held via Microsoft Teams Live

2.00 - 3.50 pm

Responsible Officer: Tim Ward

Email: emily.marshall@shropshire.gov.uk Tel: 01743 2577173

Present

Councillor Paul Wynn (Chairman) Roy Aldcroft, Nicholas Bardsley, Gerald Dakin, Pauline Dee, Nat Green, Vince Hunt (Vice Chairman), Mark Jones, Pamela Moseley, Keith Roberts and David Vasmer (to 3.25pm)

123 Apologies for Absence

There were no apologies for absence received.

124 Minutes

RESOLVED:

That the Minutes of the meeting of the Northern Planning Committee held on 21 July 2020 be approved as a correct record and signed by the Chairman.

125 Public Question Time

There were no public questions, or petitions received.

126 Disclosable Pecuniary Interests

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

With reference to agenda item 5 Councillor Mark Jones declared an interest on the grounds of perceived bias as he was the Chair of the Housing Supervisory Board. He took no part in the discussion of the item and did not vote.

With reference to agenda item 5 Councillor Keith Roberts declared an interest on the grounds of perceived bias as he was a member of the Housing Supervisory Board. He took no part in the discussion of the item and did not vote.

With reference to agenda item 5, Councillor Nat Green stated that he was a member of Shrewsbury Town Council Planning Committee, and in accordance with his dispensation would be considering the application with an open mind.

With reference to agenda item 5, Councillor David Vasmer stated that he was a member of Shrewsbury Town Council Planning Committee however, he had not had any previous involvement with the application and would be considering the application with an open mind.

**127 Crowmoor House, Frith Close, Shrewsbury, Shropshire, SY2 5XW
(20/01553/FUL)**

In accordance with the declarations made above Councillors Mark Jones and Keith Roberts withdrew from the meeting, took no part in the debate and did not vote on the item.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Pam Moseley, local Ward Councillor, having submitted a statement, took no part in the debate and did not vote on this item

The Principal Planner introduced the application which was an application for the erection of 33No dwellings and associated operational development following demolition of existing building, he drew Members' attention to the location, proposed layout and current use of the site.

The Principal Planner drew Members attention to the information and revised recommendation contained in the list of late representations.

In accordance with virtual meeting speaking protocol Councillor Pam Moseley, the local ward Councillor read out her statement in support of the proposal.

During the ensuing debate Members comments included: -

- Development would bring much needed housing to the area
- Welcomed the planting of additional trees to replace those removed.
- Concern regarding lack of visitor parking

RESOLVED:

That, as per the Officer's amended recommendation permission be granted subject to the conditions as set out in appendix A and a memorandum of understanding to secure 12 affordable houses on site in perpetuity, an Education contribution of up to £79,615 to be used at Belvidere Secondary School and an Open Space contribution of up to £135,123 to be made to Shrewsbury Town Council to be used at Upton Lane Recreation Ground and to delegate to the Head of Service to make any amendments to the recommended conditions and the memorandum of understanding as considered necessary

**128 The Doctors Surgery, Roden Grove, Wem, Shrewsbury, Shropshire
(20/02261/FUL)**

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Pauline Dee, local Ward Councillor, took no part in the debate and did not vote on this item.

The Principal Planner introduced the application which was an application for alterations in connection with conversion of former doctors surgery into one residential dwelling and with reference to the drawings and photographs displayed, he drew Members' attention to the location, proposed layout and current use of the site.

The Principal Planner drew Members attention to the revised conditions contained in the list of late representations.

Members generally agreed that the works contained in the proposal were acceptable.

RESOLVED:

That, as per the Officers recommendation, planning permission be granted subject to the conditions set out in Appendix 1 subject to: -

The amendment of condition 4 to read

All hard and soft landscape works shall be carried out in accordance with the approved landscaping plan. The works shall be carried out prior to the occupation / use 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.

And the amendment of condition 5 (parking) to read:

Notwithstanding the details shown on the approved landscaping plan, the development hereby permitted shall not be brought into use/occupied until car parking space for two cars has been provided and hard surfaced. The parking spaces thereafter shall be kept clear and maintained at all times for that purpose for the lifetime of the development.

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

129 Proposed Dwelling SE Of South Ring, Church Street, Market Drayton, Shropshire (20/01161/FUL)

Members were advised that the application had been withdrawn by the applicant prior to the meeting.

130 Oakfield, Great Ness, Shrewsbury, Shropshire, SY4 2LB (20/01879/FUL)

The Principal Planner introduced the application which was an application for the erection of single storey and part first floor rear extension and portico to front elevation; internal and elevational alterations and with reference to the drawings and photographs displayed, he drew Members' attention to the location, proposed layout and current use of the site.

RESOLVED:

That, as per the Officers recommendation, planning permission be granted subject to the conditions set out in Appendix 1

131 Breidden View, Yew Tree Bank, Bomere Heath, Shrewsbury, Shropshire (20/02503/HHE)

The Principal Planner introduced the application which was an application for the 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 and with reference to the drawings and photographs displayed, he drew Members' attention to the location, proposed layout and current use of the site. He advised the meeting that the proposals fell under permitted rights and were only before the committee as the applicant was an employee of the Council.

RESOLVED:

That, as per the Officers recommendation, as 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' 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

132 Proposed Dwelling to the east of Ivy Cottage, Walford Heath, Shrewsbury, Shropshire (20/01374/FUL)

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Nick Bardsley, local Ward Councillor, having submitted a statement, took no part in the debate and did not vote on this item.

The Principal Planner introduced the application which was an application for the erection of one detached dwelling and alterations to existing vehicular access and with reference to the drawings and photographs displayed, he drew Members' attention to the location, proposed layout and current use of the site.

The Principal Planner drew Members attention to the information contained in the list of late representations.

In accordance with virtual meeting speaking protocol the following Public Speaker statements were read out:

- Belinda Rutherford – Local resident on behalf of Brian Bensley, Janet Bensley, Craig Broadley, Jennifer Broadley, Alan Davies, Margaret Davies, John Ostins, Jane Ostins, Kevin Rutherford, Belinda Rutherford and Rosy Rutherford in objection to the proposal.
- Councillor Sarah Richards on behalf of Baschurch Parish Council in objection to the proposal.
- Councillor Louise Crowley on behalf of Bomere Heath Parish Council in objection to the proposal.
- Councillor Lezley Picton – Local Member in objection to the proposal.
- Councillor Nick Bardsley – Local Member in objection to the proposal. (In accordance with the public speaking protocol Councillor Bardsley read his statement)
- Mike Lloyd – Agent on behalf of the Applicant in support of the application.

During the ensuing debate Members comments included: -

- Appreciated that the applicant had worked with Officers to produce a proposal which was deemed acceptable in terms of size and scale.
- Agreed with Officers that the proposal constituted infill.

RESOLVED:

That, as per the Officers recommendation, planning permission be granted subject to the conditions set out in Appendix 1

133 Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the northern area as at 18 August be noted

134 Date of the Next Meeting

It was noted that the next meeting of the Northern Planning Committee would be held at 2.00 pm on Tuesday 15th September 2020.

Signed (Chairman)

Date:



Committee and Date
Northern Planning Committee
15th September 2020

Item
5
Public

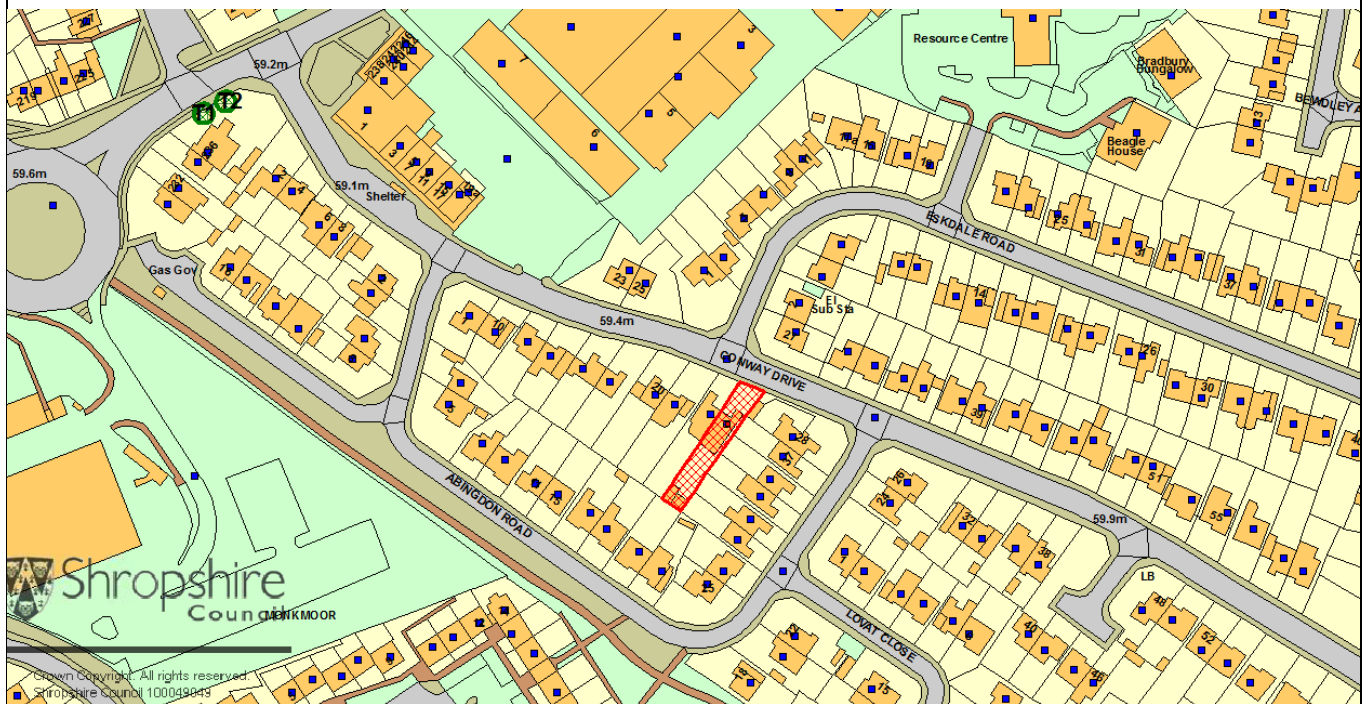
Development Management Report

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

Summary of Application

Application Number: 20/02355/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of first floor extension to northeast (front) elevation; elevational alterations to facilitate the use of integral garage as residential use		
Site Address: 26 Conway Drive Shrewsbury SY2 5UB		
Applicant: Mr Bailey and Miss Dickinson		
Case Officer: Aileen Parry	email:	planning.northern@shropshire.gov.uk

Grid Ref: 351360 - 313432



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

REPORT

1.0 THE PROPOSAL

1.1 This application seeks full planning permission for the erection of a first-floor extension to the north east (front) elevation of the property to provide an additional bedroom and elevational alterations to facilitate the use of the integral garage as residential use.

1.2 In response to the concerns raised by officers and that the proposal as submitted was unacceptable, the agent for the application has subsequently submitted a revised scheme for consideration.

In addition, the agent for the application has also provided the following to accompany the revisions:

“Following lengthy discussions with the applicants we now hope we have come up with a reduced sized scheme which provides them with their much-needed space and also meets with your approval.

- *The new extension floor area is only 5.5m² so a relatively small addition to the house.*
- *The new design shows a dormer to the front and the front roof slope being extended down thereby avoiding the full height side wall.*
- *The dormer structure is set back from the side wall line again lessening the impact of the extension.*
- *The roof slopes down to a lower eaves which is close to being at single storey height.*
- *With the roof sloping down and modest dormer structure the extension fits in well with the dwelling.*
- *The additional bedroom space will provide the applicants with a size of bedroom which is much needed.*
- *The reduced extension proposal is not now considered to over development or a dominant addition to the dwelling.*
- *The extension does not now have a mass which would be overly dominant upon the adjacent neighbours.”*

1.3 This report is therefore written primarily with regards to the revised proposal received 30.07.2020.

2.0 SITE LOCATION/DESCRIPTION

2.1 26 Conway Drive is an existing semi-detached property located within a modest / large curtilage within a residential estate in the Monkmoor area of Shrewsbury.

2.2 It is noted from a site visit and records that the property also benefits from a large dormer structure on the rear elevation providing a loft conversion to provide 3 additional bedrooms. No planning record has been located but a Building Control record stating the work has been completed and dated 19.05.2006 is held against the site record.

The site also benefits from a rear extension in the form of a conservatory.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Shrewsbury Town Council have submitted a view contrary to Officers recommendation for approval based on material planning reasons where these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Principal Planning Officer in consultation with the Chair and Vice Chair of the North Planning Committee consider the Town Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 - Consultee Comments
None.

4.2 - Shrewsbury Town Council
18.08.2020

Following a re-consultation, Members considered the revised plans for this application. The Town Council wishes to maintain its objection to this planning application. Members feel that the plans submitted are still out of keeping with the existing street scene.

20.07.2020

The Town Council objects to this application as it considers this extension to be an overdevelopment of the site, being out of scale with its surroundings and impactful on the privacy of the neighbours.

4.3 - Cllr Moseley

Please may I confirm that I would like this application considered by the Northern Planning Committee.

4.4 - Public Comments

The site has been advertised in accordance with statutory provisions. Two objections have been received. The concerns raised include

- Will impact on the view from the rear of my house/ garden
- The view will just be all the side of 26 Conway Drive, and it could affect my chance of selling my house at a decent price in future
- 26, Conway Drive has been extended quite a lot already
- A householder currently has a pleasant view from their Kitchen, Dining Room and back Bedroom along Conway Drive. If this new proposed extension goes ahead all they will see is a brick wall
- The extension will darken the rear of the house and garden
- Will spoil the look of Conway Drive

5.0 THE MAIN ISSUES

Principle of Development

Design, Scale and Character
Impact on Residential Amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Within the development plan policy, there is a general presumption in favour of extensions to dwellings provided that the scale, siting and design do not overwhelm or dominate the appearance of the original dwelling or that the extension does not have any detrimental impact on residential amenities. The proposal is considered to comply with this presumption.

6.2 Design, Scale and Character

6.2.1 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.

6.2.2 In addition, SAMDev Policy MD2 Sustainable Design builds on Policy CS6 providing additional detail on how sustainable design will be achieved. To respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set.

6.2.3 Policy CS18 'Sustainable Water Management' requires all developments to integrate sustainable water management measures to reduce flood risk.

6.2.4 Concerns have been raised by the Town Council that the revised plans are still out of keeping within the existing street scene.

6.2.5 Discussion of the revisions with team colleagues concluded that the reduction in both width and depth of the first-floor addition appearing more as a dormer reduces the visual impact upon the streetscene.

6.2.6 Officers also consider that any further reduction in the size of the first-floor element would be unworkable as a habitable room nor cost effective for the owners to build.

6.2.7 The siting of the dwelling is also considered to aid in reducing the impact of the proposal which is set back within the site away from the highway and separated by both garden area and garage of the neighbouring properties perpendicular to the site. It is considered that it will be less intrusive both to neighbours and streetscene being hidden more from view when travelling south on Conway Drive and less than noticeable when travelling north.

6.2.8 Adding to this the revised sloping roof of the garage element to follow the existing roof slope, the reductions proposed are considered will be less dominant, less intrusive and impact less on the streetscene.

- 6.2.9 Officers consider that the revised proposal whilst introducing a first-floor forward addition to the front elevation of the dwelling which is felt would provide an appropriate level of domestic extension for this dwelling in the form of an additional bedroom to the dwelling, from a design and scale perspective it is felt on balance to now be acceptable.
- 6.2.10 However, officers are mindful that the current proposal when added to the existing extensions, i.e. rear dormer and conservatory, that it is likely that any further development of the site would be considered as over development and would not be supported by officers.
- 6.2.11 Officers raise no objections to the garage conversion element of this proposal to facilitate the use of the integral garage for residential use.
- 6.3 Impact on Residential Amenity
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 Neighbours have raised concerns regarding the visual impacts and loss of light of the originally submitted proposal.
- 6.3.3 In addition, the Town Council have maintained their concerns regarding the proposal being out of keeping with the existing street scene.
- 6.3.4 Natural light or right to light is dealt with differently under Planning Regulations. A "right to light" is an easement that gives landowners the right to receive light through defined apertures in buildings on their land. From a Planning perspective, planners work to Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy under which officers consider the height of an extension and the proximity to other properties/buildings and whether or not an extension would have an unacceptable impact on the local amenities.
- 6.3.5 In addition, a neighbour has expressed concern regarding their loss of view of the streetscene along Conway Drive from the rear of their property. Within planning legislation except where the view from a particular location is also a valued public asset there is no "right to a view" which planning controls can look to safeguarding for the continuing benefit of an existing landowner.
- 6.3.6 A neighbour has also raised the possible adverse impact on property values, however, this is not a relevant material planning consideration and therefore officers have not addressed this in their assessment of the proposal.
- 6.3.7 The siting of the dwelling is considered to be set back, hidden more from view from the streetscene and lies perpendicular to the dwellings on Abingdon Road. The revisions are considered will be less overbearing to neighbouring properties and therefore it is felt that they will impact less on neighbouring amenity.

- 6.3.8 It is felt that the reduction in both width and depth of the first-floor addition to appear more dormer in style and the front roof slope to the existing garage room contribute to reducing both the visual impact upon the streetscene and also upon the impact on neighbour amenity. The reductions proposed are also considered will be less dominant and impact less upon neighbours both to the front and perpendicular south east elevations.
- 6.3.9 Officers consider therefore that on balance, the revised proposal now complies with CS6.
- 6.3.10 However, in order to protect neighbour health and wellbeing during the proposed development, a condition will also be imposed restricting the hours of construction and/or demolition work. And although not strictly a planning matter, an informative referring the applicant to the Party Wall Act and their obligations under that act will also be included.

7.0 CONCLUSION

The revised scheme is considered to be of a scale, design and appearance that will respect the existing character of the host dwelling. Although being a front elevation addition and that the development would be visible from the street scene from some aspects, the host dwelling is set back from the highway, hidden more from view from the streetscene and lies perpendicular to the dwellings on Abingdon Road. It is considered that the revised first floor front elevation extension will respect the existing character of the dwelling and will not result in any adverse visual impact or cause any detrimentally harmful impact upon neighbouring properties or the surrounding area.

It is felt that the reductions to the proposal by the submitted revised scheme will be less dominant and impact less upon neighbours whilst providing an appropriate level of domestic extension for this dwelling in the form of an additional bedroom accommodation to the dwelling and for the occupants. In addition, and on balance, the revised scheme proposed is judged to be in scale with the original building and of no demonstrable harm in terms of visual impact nor is significant harm considered to arise to the character and appearance of the dwelling and streetscene.

With regards to the garage conversion element of this proposal to facilitate the use of the integral garage for residential use officers raise no objections.

The development is therefore, as a whole and on balance, considered to accord with the NPPF and with Shropshire Council policies CS6 and MD2 .

Officers recommendation is that planning permission is granted.

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 - NPPF

Core Strategy and SAMDev Policies:
CS6 - Sustainable Design and Development Principles
CS18 - Sustainable Water Management
MD2 - Sustainable Design

Relevant Planning History:

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 Pam Moseley
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. No construction and/or demolition work shall commence outside of the following hours:

Monday to Friday 08:00 - 18:00,
Saturday 09:00 - 13:00.

No construction and/or demolition work shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

4. Construction deliveries to and from the premises shall only be undertaken outside of peak traffic times Monday to Saturday, and at no time on Sundays and Bank holidays.

Reason: In the interest of the amenities in the local area.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

5. The external materials shall be as detailed on the submitted application form received on 17th June 2020 and there shall be no variation.

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

Informatives

1. The provisions of the Party Wall etc. Act 1996 apply in respect of this development and you are required to notify all neighbours affected by the proposal before any work commences on the site.

2. Nesting birds

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent.

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and scrub removal and/or conversion, renovation and demolition work in buildings [or other suitable nesting habitat] should be carried out outside of the bird nesting season which runs from March to August inclusive.

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

Netting of trees or hedges to prevent birds from nesting should be avoided by appropriate planning of work. See guidance at <https://cieem.net/cieem-and-rspb-advise-against-netting-on-hedges-and-trees/> .]

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

3. Bats

All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

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

If any evidence of bats is discovered at any stage then development works must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

Any chemical treatment of timbers should not take place between the beginning of October and the end of March and no pointing or repairs of any gaps or crevices which cannot be easily seen to be empty should take place between the beginning of October and the first week in April, to minimise the possibility of incarcerating bats.

If timber treatment is being used then the Natural England's Technical Information Note 092: Bats and timber treatment products (2nd edition) should be consulted and a suitable 'bat safe' product should be used (see <http://webarchive.nationalarchives.gov.uk/20160913000001/http://publications.naturalengland.org.uk/publication/31005>).

Breathable roofing membranes should not be used as it produces extremes of humidity and bats can become entangled in the fibres. Traditional hessian reinforced bitumen felt should be chosen.

4. General site informative for wildlife protection

Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

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

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day

to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

5. 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.

6. Your application is viewable online <http://planningpa.shropshire.gov.uk/online-applications/> where you can also see any comments made.

-

Location: 26 Conway Drive, Shrewsbury, SY2 5UB.



Committee and Date
 Northern Planning Committee
 15th September 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> 20/02256/OUT	<u>Parish:</u>	Kinnerley
<u>Proposal:</u> Outline application for the erection of a single dwelling, with associated garaging (to include access and siting)		
<u>Site Address:</u> Proposed Dwelling South Of Four Ashes Farm Maesbrook Shropshire		
<u>Applicant:</u> R Haile & A Lewis		
<u>Case Officer:</u> Sara Robinson	<u>email :</u> planning.northern@shropshire.gov.uk	

Grid Ref: 329783 - 321271



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

REPORT

1.0 THE PROPOSAL

1.1 The application seeks outline consent for the erection of a single dwelling, with associated garaging (to include access) within the residential curtilage of and to the south of Four Ashes, Maesbrook.

1.2 All matters (layout, landscaping, design, scale and appearance) apart from access and siting are reserved for approval under a reserved matters application should outline planning permission be granted. Indicative plans have been submitted to demonstrate a style of dwelling and how a dwelling could fit on the site.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is located on the southern end of the garden at Four Ashes Farmhouse within the boundary of the community cluster of Maesbrook.

2.2 The site is roughly rectangular in shape and measures approximately 0.058ha. The site is secured by a stone and brick wall which separates the garden from the former farm barns to the east which have been converted to residential dwellings as well as the unclassified highway to the west. To the south there are mature trees and hedgerow which screens the site from the row of large properties. The site will be accessed off the U1421/10 to the west.

To the north of the site is a gravelled drive which serves the dwelling Four Ashes which is located beyond the gravel drive.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The recommendation of the case officer differs from that of the Parish Council, who do not support the development. The application was therefore taken to Council's agenda setting meeting to discuss whether it warrants further consideration at planning committee. This takes place between the Chair and Vice Chair of the North Planning Committee and the Principal Planner and it was determined for the application to be determined by the Planning Committee.

4.0 Community Representations

- Consultee Comments

SUDS – 23/06/2020

No objection raised to the proposed development subject to the inclusion of the recommended informative to any grant of permission.

Highways – 09/07/2020

Conditional acceptance.

A number of conditions and informative have been requested to be attached to any grant of permission.

Parish Council – 21/07/2020

The site is within the development boundary for Maesbrook, Four Ashes Farmhouse has already been subject to extensive development (under applications OS/03/12697/REM and OS/06/14758/FUL, which were subsequent to OS/01/11834/FUL and OS/01/11835/OUT) the first of which was particularly unsympathetic to the character of the area. The SAMDev guideline for the settlements of Kinnerley, Maesbrook, Dovaston and Knockin Heath for future housing growth of around 50 dwellings during the period to 2026 has already been exceeded, so there is no need for the proposed house. The design guideline G9 ii at page 108 of the Kinnerley Parish Neighbourhood Plan states that building a dwelling within a garden should not involve the sub division of the curtilage in such a way that this adversely affects the setting of the original dwelling, the adjacent houses or the character of the village or hamlet. Four Ashes Farmhouse is a substantial family house and building a house within its enclosed garden would constitute overdevelopment and would detract from its setting, and from that of its historically attached barns and from that of this corner of Maesbrook. We also note that road safety, the lack of a nearby footpath along the main road and sewerage were also raised as issues by local residents. For all these reasons we therefore object to this proposal.

- Public Comments

Following neighbour notifications and the display of a site notice for the period of 21 days, 8 public representations of objection were received at the time of writing this report. The reasons of objection are as follows;

- Impact upon Historical Heritage
- Inappropriate insensitive infill
- Lack of detail for the disposal of Foul & Surface Water, history if issues regarding drainage in the area
- Impact upon Natural Environment
- Highway Safety
- Lack of pedestrian access to the village
- Contrary to local and national planning policies
- Impact upon neighbour amenities, mainly overlooking
- Two allocated development sites for residential dwellings which would provide in excess of need within the area.
- Supporting document describes development in the area as having 'a varied mix of type and form, with no one prevalent pattern', however objector states this is not the case in the immediate area,
- The proposal calls for the sub-division of the residential curtilage of the existing Four Ashes property,
- The neighbouring barn conversions which previously formed Four Ashes Farm were undertaken sympathetically and reflect local vernacular,
- Construction of a new dwelling would significantly impact the collection of

buildings and surrounding environment and architectural agricultural heritage.

- Historic applications stated that "The barns relate to the original farm house and their development will preserve the rural character of the area".
- Supporting planning statement describes the farmhouse as a 'modest dwelling' however they consider the dwelling to be a 5/6 bedroom dwelling within a large footprint,
- Sub-dividing the curtilage would leave an inappropriate sized plot of land for such a large property
- Development could impact upon the long-term future of Four Ashes
- Development should have concentrated on refurbishment of Four Ashes and valued character and setting.
- Application seeks to agree access and increase of parking to 7 spaces,
- Application fails to describe appearance, layout or scale, other than 'a single detached dwelling, with associated garaging'.
- Plans submitted indicate a substantial imposing dwelling
- No detail of disposal of Foul Sewerage
- States that no trees will be impacted, there are a number of trees on site some of which have been felled prior to submission of application.
- Access will be off an unclassified single track road which is in a poor state of repair and prone to localised flooding
- Proposed development would further deteriorate the road due to increase in traffic,
- Visibility is poor and there is a lack of passing places and speeds exceed safe driving speeds and development would result in unacceptable impact on highway safety
- Road joins onto the B4398 within 40mph speed frequently exceed this.
- No footways in place, disconnected from main village with no safe means of access on foot.
- Site is located within but western fringe of Maesbrook.
- There are two allocated housing sites identified within the SAMDev which are centrally located and preferable sites.
- Development fails to accord with national and local planning policies, fails to observe the environmental objective of protecting our historic environments and the desirability of maintaining areas of prevailing character and setting
- Further development of Four Ashes is unsuitable representing poor example of infill development
- the number of commitments for new housing in the Parish already significantly exceeds that identified in the plan (MBK001&MBK009) and sites with permission in stages of development

5.0 THE MAIN ISSUES

- Principle of development
- Design and Visual impact
- Access
- Residential Amenity
- Conservation
- Drainage

- Other Matters

6.0 OFFICER APPRAISAL

6.1 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. 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 adopted development plan for Shropshire is the Local Development Framework (LDF) Core Strategy, the Supplementary Planning Document (SPD) on the Type and Affordability of Housing and the Site Allocations and Management of Development (SAMDev) Plan. Significant weight is also to be attributed to the National Planning Policy Framework (NPPF) in the determination of planning applications.

Core Strategy Policies CS1, CS3, CS5 and CS11 seek to steer new housing to sites within market towns, other 'key centres' and certain named villages. Policy CS4 also allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen; these hubs and clusters were designated as part of the adoption of the Council's Site Allocations and Management of Development (SAMDev) plan.

The Council is satisfied it can demonstrate a deliverable 5 year supply of housing land to meet housing need through the sites identified in the SAMDev document and through provision of housing across the county through the community hub and cluster approach; the majority of recent appeal decisions support this position. Consequently the Council's policies on the amount and location of residential development should be regarded as up-to-date and that there is no pressing need to support sites beyond the boundaries of the designated settlements by way of supplementing the County's housing targets.

Maesbrook is recognised as comprising part of community cluster within the Oswestry area within policy S14.2 (vii) of SAMDev. The hamlet is close knit which follows the B4398 and the U1421/10, the proposed site is located off the U1421/10 within the development boundary of Maesbrook.

The application site is not within the Conservation Area or near any Listed Buildings, however the development is within the curtilage of a non-designated heritage asset and adjacent buildings are also considered to be non-designated heritage assets. Consideration will be required to assess its potential impact upon the surrounding non designated assets. Whilst to the south of the application site is an established modern residential area.

It is considered that a new dwelling would not itself have a significant impact on the landscape subject to an appropriate and sensitive design since the site is already surrounded by housing development.

In this regard, the application for a new dwelling within the community cluster of Maesbrook is considered acceptable in principle and therefore appropriate.

6.2 Design and Visual impact

6.2.1 As the proposal is outline with all matters reserved with the exception of access and siting, a consideration of design, scale, and appearance will take place at the reserved matters stage. This application is simply to assess the principle of the development and its siting.

The proposed dwelling will be sited within the curtilage of the dwelling known as Four Ashes Farm. The former agricultural buildings have now been converted and the site is no longer part of a working agricultural farmyard.

Notwithstanding the above, it has been discussed the type of dwelling that would be acceptable within this setting. Having reviewed the setting it is considered that a modest dwelling would be acceptable in the site and should only be of a dormer height. (Use of the roof space for the first floor accommodation). Indicative plans have been submitted to demonstrate the style of property. Although the indicative design required some alterations to be acceptable it was considered that the scale would be acceptable and to be considered at reserved matters.

Concerns had been raised in relation to the siting of the proposed development and its potential impact upon neighbouring dwellings. It was requested that amended plans should be submitted to alter the orientation of the proposed dwelling so as not to be overlooking the barn conversions.

Amended plans have since been received which have altered the orientation accordingly and include the siting of the garage. It is considered that the siting and orientation of the dwelling in its current location will limit the impact upon privacy afforded to neighbouring dwellings and improves its association with the principal dwelling. It has therefore been agreed that the siting is to be determined at outline to secure the appropriate siting of the dwelling.

Alongside careful siting of the subsequent dwelling, the plot should be subjected to a sympathetic landscaping scheme. These measures shall cumulatively work to reduce the visual impact and bulk of any property here constructed. This is particularly key where the development site falls within the curtilage of a non-designated heritage asset.

6.3 Access

6.3.1 The property shall be served by sharing the existing access onto the U1421/10, however the access will be widened and improved so as to accommodate the two properties.

Concerns have been raised within the public representation in relation to the proposed increase in traffic along the highway. However, it is noted that the proposed dwelling is located within close proximity to the junction on to the B5398

and therefore will only impact upon a short length of the unclassified road.

Concerns have also been raised in relation to the lack of footpath access to the centre of the village, however it is considered that this development is not commensurate to providing such access.

Whilst subject to the national speed limit, due to the alignment of the road from both directions vehicle speeds are highly likely to be universally below this. Accordingly, though the proposed visibility splays are lower than that recommended in Manual for Street 2, sufficient supporting evidence has been provided surrounding the road conditions to justify that the substandard visibility splay proposed is adequate and commensurate with the local traffic conditions and shall not compromise highway safety.

The Highways Authority have been consulted and have stated that the principle of the proposal is not considered to raise any undue adverse highway conditions in this location whilst an adequate measure of visibility for the prevailing highway conditions is to be provided. The officer concluded that based upon the information contained within the submitted application details it is considered that, subject to the conditions listed being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

6.4 Residential Amenity

- 6.4.1 It is noted that the siting was not originally proposed to be considered at outline, however, due to the concerns regarding the siting and impact upon neighbouring amenities it was determined that siting should be considered at outline.

The orientation of the dwelling has been altered so as not to be overlooking from the rear over the barn conversions to the east of the dwelling and therefore the proposed dwelling will be south facing. Due to the existing screening and separation to the south of the site it is considered that the proposed development would not impact upon the amenities afforded to the dwelling of orchard park. It is also considered that sufficient separation can be achieved between the proposed dwelling and Four Ashes Farm House.

Based on the ample size of the plot, and the separation from residential neighbours it is not considered that the addition of a sole dwelling house at this location would pose unacceptable harm to the amenity of neighbouring residents.

6.5 Conservation

- 6.5.1 The site is not in a Conservation Area nor within the setting of a Listed Building but is within the curtilage of Four Ashes Farm, and its associated former farmstead. The farmstead was first identified and classified by the Historic Farmsteads Characterisation Project, 2008 – 2010, (ESA6427), largely from the digital version of the c.1900 OS large scale mapping. At that time it was described: Loose Courtyard comprising an L- Plan range with detached buildings to the third side of the yard. Additional Plan Details: Covered Yard. Date Evidence from Farmhouse: 19th Century. Date Evidence from Working Building(s): None. Position of

Farmhouse: Detached, side on to yard. Farmstead Location: Hamlet. Survival: Partial Loss - less than 50% change. Confidence: High. Other Notes: Large L-range farm buildings, part of roof structure ruinous/to be converted to dwelling. Separate covered yards demolished, replaced by house. No longer in agricultural use.

In the early and mid 2000's the farm buildings gained consent to be converted to two dwellings.

We would consider Four Ashes and the farmstead previously associated with it to be non-designated heritage assets (as defined in Annex 2 of the NPPF) as they are still a legible farmstead group and retain the farmstead character and traditional construction materials.

The Conservation Officer has raised no objection to the proposed development, however has stated that consideration should be given to the design of the proposed dwelling and in the context of the surrounding farmstead. concern had been raised that the siting of the garage had not been provided, however amended plans now demonstrate the location of the garage and the Conservation Officer does not raise any concerns in regard to siting.

Public comments have been raised in relation to the sub division of the curtilage of the dwelling, however no concerns have been raised by the heritage officer and it is considered that the can be undertaken without adversely impacting upon the curtilage of Four Ashes through suitable boundary treatments.

6.6 Drainage

6.1 Concerns have been raised in that little detail for the disposal of Foul & Surface Water has been submitted as part of the application. However the Drainage Officer has been consulted and has requested that an informative is attached to any grant of permission to ensure that suitable drainage scheme is to be designed in accordance with relevant legislation and Building Regulations.

Concerns have also been raised in relation to the history of issues regarding drainage in the area as well as flooding, however having reviewed surface water and flood mapping for the area none have been identified on the site itself.

6.7 Other matters

6.7.1 Public representations of objection have been received in relation to this application which are as follows;

It has been stated that the proposed development is inappropriate insensitive infill, however having reviewed the application it is considered that the development can occupy the site sensitively without unacceptable impact upon its surroundings.

Concerns were also raised in relation to the impact upon Natural Environment, however the proposed site will occupy a garden area, limited appropriate areas for biodiversity due to it being well kept and mowed garden.

It is noted that there are two allocated development sites for residential dwellings which would provide in excess of need within the area. However, these development sites have not yet been brought forward or developed and therefore the area has not yet reached the need for the area. Further still housing numbers during the plan period are a guidance and not an exact amount for development consideration.

It has been stated that the supporting planning statement describes the farmhouse as a 'modest dwelling' however they consider the dwelling to be a 5/6 bedroom dwelling within a large footprint. It is considered that there will still be sufficient curtilage for the dwelling known as Four Ashes.

7.0 CONCLUSION

The principle of an additional market dwelling in Maesbrook is acceptable. Some matters – scale; appearance and landscaping are reserved for later approval. These matters would therefore be considered in subsequent reserved matters application(s). There is no objection from the Council's Highways Team or Conservation Team to the principle of a dwelling on this site.

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:

20/02256/OUT Outline application for the erection of a single dwelling, with associated garaging (to include access and siting) PDE

OS/01/11834/FUL Conversion of existing farm buildings to 3 no. dwellings served by private drive GRANT 30th May 2002

OS/01/11835/OUT Erection of five dwellings served by a private drive GRANT 30th May 2002

OS/03/12697/REM Erection of five dwellings with associated highway works GRANT 11th December 2003

OS/06/14758/FUL Change of use of redundant farm buildings to 2no. dwellings GRANT 6th

February 2007

PREAPP/14/00333 Proposed housing development consisting of five three/four bedroomed properties PREUDV 19th September 2014

20/02256/OUT Outline application for the erection of a single dwelling, with associated garaging (to include access and siting) PDE

11. Additional Information

[View details online:](#)

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

Local Member Cllr Matt Lee

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The development will be limited to one dwelling. The dwelling will have a maximum of 2 storeys and be reflective of the scale and design as indicated in drawing number HPT10800-003 – Typical House layout (Indicative plan submitted in support of the outline application) and will not exceed 140m² internal floorspace, (measured externally and excluding garages) The associated garage will be single-storey and thus appropriate and subservient in size to the size and scale of the associated dwelling.

Reason: In order that development on site is of a scale and design that is appropriate to the location and setting in this semi-rural location.

5. The development shall be carried out in strict accordance with the approved plan insofar as it relates to defining the site's boundaries.

Reason: To define the permission, and for the avoidance of doubt.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. No development shall take place until details for the parking, turning, loading and unloading of vehicles have been submitted to and approved by the Local Planning. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

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

7. The visibility splays shown on Location Plan published on 09.06.2020 shall be set out in accordance with the splay lines shown. All growths and structures in front of these lines shall be lowered to and thereafter maintained at carriageway level prior to the dwelling being occupied and thereafter be maintained at all times free from any obstruction.

Reason: To provide a measure of visibility from the shared access in both directions along the highway in the interests of highway safety.

8. The extended shared access shall be satisfactorily completed and laid out in accordance with the Indicative Site Plan Drawing No. HPT10800-002 Rev A prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

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

9. The access apron shall be constructed in accordance with Shropshire Council's specification currently in force for an access and shall be fully implemented prior to the dwelling being occupied.

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

10. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification, no access gates or other means of closure shall be erected within 5.0 metres of the highway boundary.

Reason: To provide for the standing of parked vehicles clear of the highway carriageway in the interests of highway safety.

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

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

Informatives

1. Highways Informative notes:

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

<https://www.shropshire.gov.uk/roads-and-highways/road-networkmanagement/application-forms-and-charges/>

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

Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

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, cycle ways & 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-storageand-collection.pdf>

2. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at:

<https://www.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-fordevelopers.pdf>

The provisions of the Planning Practice Guidance, Flood Risk and Coastal Change, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

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Committee and Date

Northern Planning Committee

15th September 2020

Item

7

Public

Development Management Report

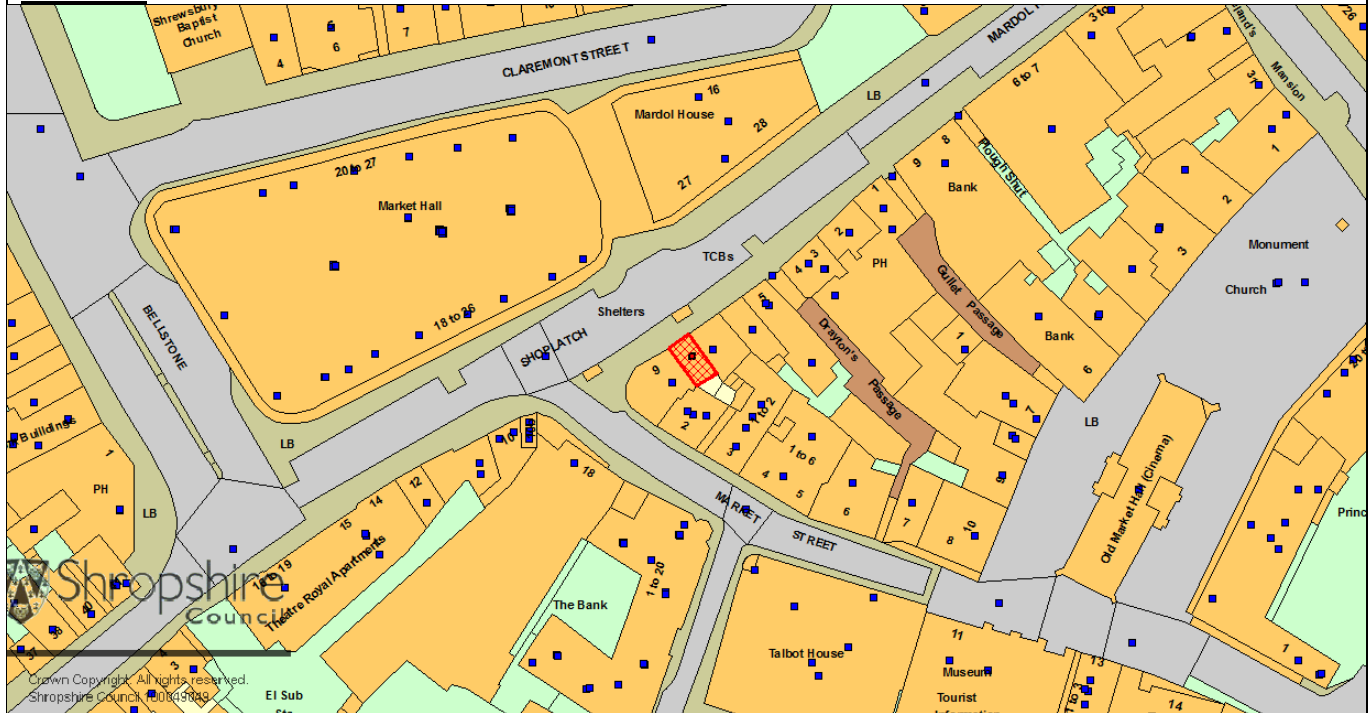
Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 20/02490/COU	Parish:	Shrewsbury Town Council
Proposal: Application under Section 73a of the Town and Country Planning Act 1995 for the retrospective change of use from A3 (cafes/restaurants) to combined A3/A5 (cafe/restaurant/hot food takeaway)		
Site Address: 8 Shoplatch Shrewsbury SY1 1HF		
Applicant: Miss Gwen Burgess		
Case Officer: Aileen Parry	email : planning.northern@shropshire.gov.uk	

Grid Ref: 349056 - 312479



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application is seeking the retrospective change of use from A3 (cafes / restaurants) to combined A3/A5 (cafe /restaurant /hot food takeaway).

Note: As of 01.09.2020 The Use Classes Order In England for these use classes will change. A3 changes to E and A5 to Sui generis.

- 1.2 The applicant has confirmed that there will be no internal alterations to the premises associated with the change of use and that they do not use facilities for any cooking that would require the installation of an external flue system. No external changes to the premises are therefore required. In addition, the business does not have its own drivers but utilises external delivery companies. Limited seating for eating in is also proposed.
- 1.3 The applicant has also advised within their application that the existing business has had to adapt and change due to the Covid-19 outbreak. They now serve mexican food for delivery in the evenings and breakfast, sandwiches etc. during the day.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 8 Shoplatch which with adjacent No 7 is a Grade II listed building situated within Shrewsbury Town Centre within Shrewsbury Conservation Area and more specifically the Town Centre Special Character Area. The area is characterised in this part of the town by a mix of commercial, retail and residential properties.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the applicant is an elected member of the Council and therefore the application must be determined by Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 - Consultee Comments

Regulatory Services

As the premises is currently an A3 premises, the addition of an A5 takeaway aspect to allow food to be taken away from the property doesn't attract adverse comment from regulatory services. Any hot food takeaway after 2300 will require a licence from the licencing team.

Highways

Given the Town Centre location and proximity to on street parking and loading bays, from a highways perspective no objection is raised to the addition of takeaway food to the existing café/sandwich bar.

Conservation (Historic Environment)

While there is no objection in principle to this change of use application as it affects No 8 Shoplatch, it is noted that this building is Grade II listed along with No 7 adjacent, and is within the Shrewsbury Conservation Area (Town Centre Special Character Area) - if there are any internal alterations associated with this change of use, or external modifications such as new extraction flues, these type of works normally require listed building consent. If there are none, then no objection is raised on heritage grounds where the requirements of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended would be applicable.

4.2 - Shrewsbury Town Council

The Town Council raises no objections to this application.

4.3 - Public Comments

The site has been advertised in accordance with statutory provisions. No public representations have been received at the time of writing this report.

5.0 **THE MAIN ISSUES**

As there are no external or internal alterations proposed the main issue to consider is the principle of development.

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

6.1.1 Shropshire Core Strategy Policy CS15 states that Shropshire's network of centres, and the principle that town centres are the preferred location for new retail, office, leisure, entertainment and cultural facilities, and other town centre uses. SAMDev policy MD10a (Managing Town Centre Development) which refers to secondary and primary frontages within the town centre primary shopping area and an emphasis on maintaining A1 use.

6.1.2 The building is situated within secondary shopping frontage within Shrewsbury town centre. Policy indicates that within the secondary frontages changes of use from A1 retail to other main town centre uses will be acceptable where they would maintain an active and continuous street frontage and would not result in an over concentration of non-retail uses.

6.1.3 The site along with No 7 adjacent is a Grade II listed situated within Shrewsbury Town Centre within Shrewsbury Conservation Area (Town Centre Special Character Area) and which is characterised in this part of the town by a mix of commercial, retail and residential properties and is therefore considered to be a sustainable location for the proposed new use.

6.1.4 The unit is currently a Class A3 use and is on the edge of the shopping area and is considered would continue to encourage footfall in this part of town as well as offer its customers a different food experience as a combined A3/A5 (cafe /restaurant /hot food takeaway) use (new use classes E and Sui generis respectively).

6.2 **Impact on neighbouring properties**

- 6.2.1 The applicant has confirmed that there will be no internal alterations to the premises associated with the change of use and that they do not use facilities for any cooking that would require the installation of an external flue system. No external changes to the premises are therefore required.
- 6.2.2 The site already operates as a coffee shop and sandwich bar. The applicant advises that the change to include a hot food takeaway and delivery is as a result of the business having had to adapt and change due to the Covid-19 outbreak. They now serve mexican food for delivery in the evenings and breakfast, sandwiches etc. during the day. The cooking is low odour, and they do not deep fry food. Additionally there is some limited seating for eating in provided. Officers consider that the unit is small therefore the numbers of seated customers will be limited.
- 6.2.3 With regards to hours of opening, the application form states that for seven days of the week the opening hours are proposed as Monday to Sunday 0800 to 2230. A condition will be placed on any planning permission that may be granted that restricts customer on site presence to within these times.
- 6.2.4 In addition, officers note that there are many cafes, bars and pubs in the vicinity and the town and with the location of the business on a busy road for through traffic in the town and also pedestrians, it is considered that any noise from customers entering and leaving the premises during the hours proposed would not be that noticeable above the existing activity and noise in the area at these times.

6.3 **Other Matters**

6.3.1 Alterations

No internal or external alterations are proposed . An informative will however be included on any planning permission that may be granted to advise the applicant that in the future if any extraction system is required to be installed listed building consent may also be required and details will need to be submitted prior to installation. The applicant will also be advised that any internal or external alterations including adverts may need Listed Building Consent and/or advert consent and that the Historic Environment team must be consulted before carrying out any work.

6.3.2 Parking for delivery

The business does not have its own drivers but utilises external delivery companies instead, therefore the parking of company vehicles is not required. Due to the premises location and close proximity to on street parking and loading bays, no objections have been raised by the Councils Highways with regards to these matters.

7.0 **CONCLUSION**

Within the National Planning Policy Framework Section 7. Ensuring the vitality of town centres paragraph 85 it states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

According to SAMDev Plan MD10A Shrewsbury is a Category C settlement

with a primary shopping area which includes primary and secondary frontages. The site falls within a secondary frontage.

The proposal affects the ground floor of a building that is situated on a secondary frontage shopping street and policy MD10a advises that within secondary frontages additional main town centre uses are acceptable where they would maintain an active and continuous frontage and would not result in an over concentration or undue dominance of non-retail uses. Generally, there is a presumption in favour of proposals for main town centre uses within the wider town centre. The unit is currently a Class A3 use and is on the edge of the shopping area and is considered would continue to encourage footfall in this part of town. No internal nor external alterations are proposed.

The proposal for retrospective change of use from A3 (cafes/restaurants) new use class E, to combined A3/A5 (cafe/restaurant/hot food takeaway) new use class Sui generis, is considered to accord with policies CS6, CS15, CS16, MD2 and MD10a and regard and due regard has been made to the requirements of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as revised.

Officers recommendation is that planning permission for the change of use is granted.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10. BACKGROUND

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and SAMDev Policies:
CS6 - Sustainable Design and Development Principles
CS15 - Town and Rural Centres
CS16 - Tourism, Culture and Leisure
MD2 - Sustainable Design
MD10A - Managing Town Centre Development

Relevant Planning History:

13/04846/LBC Application under Section 73a of the Town and Country Planning Act 1990 for the installation of retractable canopy to front elevation NPW 21st January 2014
14/00095/FUL Application under Section 73a of the Town and Country Planning Act 1990 for the installation of a replacement canopy to shop frontage (retrospective) GRANT 24th March 2014

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 Nat Green
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.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT****CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

3. The premises shall not be open to the public/customers, nor any services be available to the public/customers, outside the following hours: 0800 to 2230 hours Monday to Saturday and 0800 to 2230 hours on Sunday and Bank Holidays.

Reason: To protect the amenities of occupiers of nearby dwellings and business properties from potential noise or disturbance and to protect local amenity.

Informatives

1. The applicant is advised that in the future if any extraction system is required to be installed listed building consent may also be required and details will need to be submitted prior to installation.

2. The applicant is advised that any internal or external alterations including adverts may need Listed Building Consent and/or advert consent and that the Historic Environment team should be consulted before carrying out any work.

3. 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.

4. Your application is viewable online <http://planningpa.shropshire.gov.uk/online-applications/> where you can also see any comments made.

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Committee and Date
 Northern Planning Committee
 15th September 2020

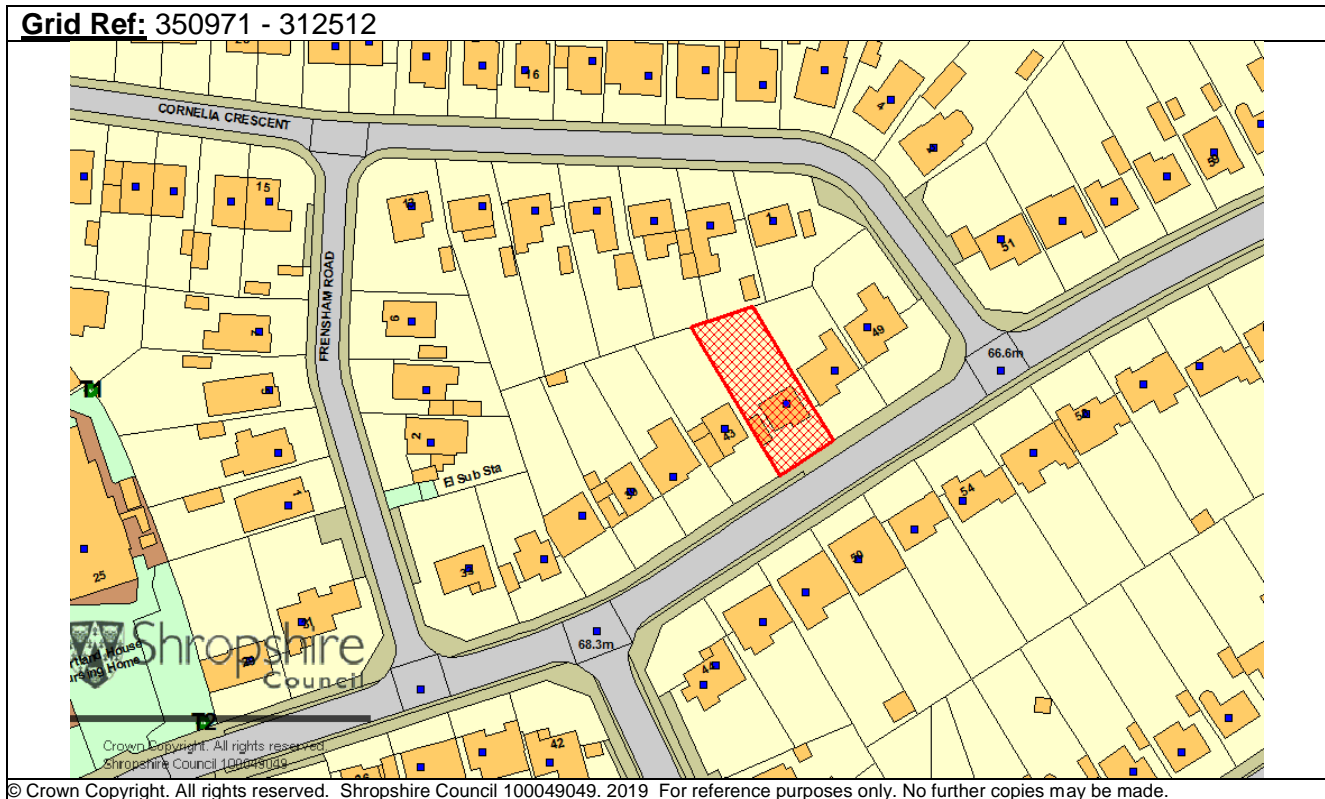
Item
8
 Public

Development Management Report

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

Summary of Application

Application Number: 20/02543/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of single storey garage extension		
Site Address: 45 Belvidere Road Shrewsbury SY2 5LX		
Applicant: Mr and Mrs Furlong		
Case Officer: Gemma Price	email : planning.northern@shropshire.gov.uk	



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 garage extension to the dwelling known as 45 Belvidere Road. The extension will contain a hobby room.
2.0	SITE LOCATION/DESCRIPTION
2.1	The dwelling subject to the application is located approximately 1.08 miles East from the centre of Shrewsbury. The dwelling is a detached property constructed in red facing brick and brown tiles with a drive, small garden and garage to the front of the property. The garage currently runs down the side elevation of the property and approximately measures at 6.07 metres in length, 2.87 metres in height with a width of 3.95.
2.2	The site is bounded by neighbouring dwellings either side of the property and to the rear.
3.0	REASON FOR COMMITTEE/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
4.1	- Consultee Comments
4.1.1	Shrewsbury Town Council The Town Council raises no objections to the development proposed.
4.2	- Public Comments
4.2.1	This application was advertised via notice at the site and the residents of five 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
5.1	<ul style="list-style-type: none"> • Principle of development • Siting, scale and design of structure • Impact on amenities • Other matters
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.
6.1.2	Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible.
6.1.3	Section 12 of the National Planning Policy Framework; Achieving well-designed places, reinforces these goals at a national level, by requiring design policies to reflect local aspirations ensuring developments are sympathetic to local character, visually attractive and establish a strong sense of place.
6.1.4	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.
6.2	Siting, scale and design of structure
6.2.1	The extension to the existing garage will contain a hobby room. The existing garage measures at approximately 6.07 metres in length, 2.87 metres in height with a width of 3.95. Once extended as proposed, it will comparatively measure at approximately 11.06 metres in length, 2.94 metres in height with a width of 3.54 metres.
6.2.2	The proposed materials for the extension will match existing in brick and the flat roof will be grey or black in colour with white UPVC windows. No concerns are raised in relation to the design of the proposals.
6.2.3	The siting and scale of the proposal is acceptable. The scale is not excessive, and the extension will have very little impact as this will fall in line with the existing garage.
6.3	Impact of amenities
6.3.1	Due to the proposed extension being to the rear of the property this will not impact the street scene. The property sits within a large curtilage and therefore the proposals will still allow adequate garden space.
6.3.2	No concerns are raised in relation to the impact on the neighbours to the side of the property and to the rear. The proposed garage extension will fall in line once extended with both the properties to the side elevations. The boundary to the rear is approximately 19.9 metres which is adequate distance for the proposals to not cause concern to the neighbours' amenities.

6.4	Other matters In order to safeguard the residential character of the area the case officer feels a condition should be added to the garage / annexe confirming that it shall not be used for any purpose other than those incidental to the enjoyment of the existing residential dwelling.
7.0	CONCLUSION
7.1	The works are judged to be in scale and character with the original building and of no demonstrable harm in terms of visual impact. No significant harm is considered to arise to the neighbouring resident's amenity and the application therefore accords with the principal determining criteria of the relevant development plan policies including CS6 and MD2 and approval is recommended with the condition discussed in other matters.
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.

	<p>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.</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:
National Planning Policy Framework

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles
MD2 - Sustainable Design
CS17 - Environmental Networks

RELEVANT PLANNING HISTORY:

20/02543/FUL Erection of single storey garage extension PDE

11. Additional Information

[View details online:](#)

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

Local Member Cllr. Hannah Fraser

Appendices APPENDIX 1 - Conditions

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

1. (a) 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).

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

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

2. The garage / hobby room hereby approved shall not be used for any purpose other than those incidental to the enjoyment of the existing residential dwelling and must not be sold as a separate dwelling.

Reason: To safeguard the residential character of the area.

Informatives

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

2. 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.

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Committee and Date
 Northern Planning Committee
 15th September 2020

Item
9
 Public

Development Management Report

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

Summary of Application

Application Number: 20/02727/FUL	Parish: Stoke Upon Tern
Proposal: Erection of 1no dwelling and alteration to existing vehicular access	
Site Address: Proposed Residential Development Land Off Rosehill Road Stoke Heath Shropshire	
Applicant: Mr Martin Cheese	
Case Officer: Sue Collins	email : planning.northern@shropshire.gov.uk

Grid Ref: 365480 - 328941

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

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks planning permission for the erection of a detached dwelling.
- 1.2 During the course of the application amended plans were received and it is on the basis of these amended plans that this report is written.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located within Stoke Heath which is defined as a community hub within SAMDev policy S11.2(vi). Planning permission has been previously granted on this site for the construction of 2 dwellings but this has not been implemented and has now expired.
- 2.2 The land is a level area of grassland with a dwelling to the rear. It is a corner plot and sits between Rosehill Road and Sandy Lane with access off Rosehill Road. The site is bounded by mature hedgerows with some semi-mature/mature trees within the boundaries and the surrounding landscape.
- 2.3 The Laburnums site to the west (rear) of the site and is a large detached house set within a very large garden area. To the south on the opposite side of Sandy Lane is Heathfields which is another large detached dwelling set within a very large garden area. There are a number of dwellings along Sandy Lane and Rosehill Road of varying size and design

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Local Parish Council have objected to the application and it is considered they have raised material considerations that the Chair and Vice consider are appropriate to be considered by Committee.

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

4.1 Consultee Comments

4.1.1 Parish Council: Objects

Response Received 27th August 2020

The Parish Council wish to maintain their objection to this Application on the grounds that whilst it is recognised that some changes to the scheme have improved the appearance of the proposed dwelling it is still too large, both in terms of its footprint and its height, and is not therefore in keeping with its surroundings. As a point of information the only other two storey dwelling near the proposed house on Rosehill Road has a substantially smaller footprint and has a lower ridgeline at approximately 6.5m, all the other properties are single storey.

Response Received 7th August 2020

20/02727/FUL – Residential Development on Rosehill Road – Object. The Parish Council wish to maintain their objection to this Application on the grounds of the scale and orientation of the proposed development. However, following a site

meeting with the Applicant on 6th August, we understand that a further revision to this Application is likely to be forthcoming which may address a number of our concerns, and we look forward to seeing these changes.

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.

4.1.3 **Highways:** No objection – subject to the development being constructed in accordance with the approved details and the recommended conditions and informative notes.
The development proposes the erection of 1 dwelling with access off Rosehill Road and is a resubmission of the previously withdrawn application under reference 19/05437/FUL. The access and parking arrangements are considered to be satisfactory and subject to the conditions listed above being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

4.1.4 **Ecology:** No objection - use standing advice.

4.1.5 **Trees:** No objection provided the recommended condition is included on any planning permission that may be granted.

4.1.6 **Drainage:** No objection.

4.2 **Public Comments**

4.2.1 No letters of representation have been received.

5.0 **THE MAIN ISSUES**

- Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- Landscape
- Ecology

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 Stoke Heath is an identified Community Hub within SAMDev. There have been previous consents on this land for residential development of up to two dwellings. It is a large plot of land which is adjacent to or within close proximity of other residential development to the west and south. The adopted policy allows for infilling development and given its location on a corner plot adjacent to another dwelling this is considered to comply with the policy. Overall no objection is raised by officers to the principle of a dwelling on this parcel of land and it is in accordance with policy S11.2(vi) of SAMDev.

6.2 **Affordable Housing**

6.2.1 the provision of 1 dwelling on the site does not meet the criteria for an affordable housing contribution to be made.

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 Concerns have been raised by the Parish Council with regard to the development in relation to the size of the dwelling.

6.3.4 The proposed dwelling is very large but is set within a very large plot. The area surrounding the site including along Sandy Lane is predominately occupied by large dwellings in large gardens and so this would not appear out of keeping with the pattern of development. Influence has been taken from the dwelling at Heathfields but with contemporary features included. While the Parish Council has objected to the height of the building and advised that Rosehill road is dominated by single storey buildings, there are a number of two storey properties and as such there is no defined vernacular style in this area.

6.3.5 The dwelling comprises an entrance lobby, living room, open plan kitchen/dining room, utility, study/bedroom 4 and WC on the ground floor with master bedroom suite and two bedrooms, one en-suite and family bathroom on the first floor. Externally the building is to be brick clad with cast stone window cills and headers and plain tiles to the roof. Large areas of glazing are also a feature of the building particularly on the front with glazing extending to the ridge of the front gables and with a balustrade to the front with access off the first floor landing. Solar panels are also to be included on the southern elevation of the building.

6.3.6 The proposed building will have maximum dimensions of approximately 17 metres

x 15.5 metres with a height to ridge of approximately 8.8 metres. From the measurements given on the plan this gives an internal floor area of approximately 356 square metres. There is no question that this is an extremely large house and is of exception. However, the plot it is to be constructed upon is very large and when looking at other dwellings in the area, the proportion of land to size of dwelling is comparable particularly with some along Sandy Lane. It will not appear cramped or contrived and while it will be seen within the landscape as this is a prominent location being a corner, a large imposing dwelling would provide an architectural feature to the area. Therefore, while the Parish Council have raised concerns regarding the scale of the building it is considered by officers that in this case no objection can be sustained to the proposed scheme. It will require the developer to ensure that the details of the works are to a high standard to ensure that this will be of exemplary quality.

6.3.7 The external materials to be used in the build are specified on the submitted drawings and these are considered to be acceptable.

6.3.8 On the basis of the above officers consider that while this is an exceptionally large dwelling, this is a large plot that can accommodate such development. The plot size is similar to others in the area, particularly along Sandy Lane and as such the development does not appear cramped or contrived. Appropriate materials are to be used for the development. As such the proposal is considered to be in accordance with the NPPF and policies CS6 and MD2 of the Shropshire LDF.

6.4 **Impact on Residential Amenity**

6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.4.2 The proposed dwelling is set within a large plot and while the rear boundary adjoins the garden area of The Laburnums the separation distance between the dwellings will be in excess of 21 metres. As such the development will not cause any loss of privacy or light.

6.5 **Highways**

6.5.1 The proposed development is to be accessed off Rosehill Road. No objection to the proposal has been raised by the Council's Highways Development Control Manager to the development. A number of conditions have been recommended for approval to ensure that the access provided is to an appropriate standard to maintain highway safety.

6.6 **Landscape**

6.6.1 The site is bounded by mature hedgerows particularly along its highway boundaries. Within the landscape there are also a number of mature/semi-mature trees.

6.6.2 Details submitted with the application identify that the hedgerows will remain in situ as well as tree T1B on the eastern boundary. An 8 metre section of hedgerow is to be removed to create the new access but the existing gateway will be replanted as part mitigation. Any fencing will be on the garden side of the

boundary hedges and as such soften the visual impact of the dwelling. It will also ensure that the rural character of Rosehill Road will be maintained as most dwellings have retained hedgerows along the road frontage.

6.6.3 The conditions recommended by the Tree Officer will be included on any planning permission that may be granted. Overall it is the opinion of officers that the proposal will not have a detrimental impact on the landscape of the area.

6.7 Ecology

6.7.1 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. Therefore the application has been considered by the Council's Ecologist.

6.7.2 No objection has been raised to the proposed development with standard conditions being recommended for inclusion should planning permission be granted.

6.7.3 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

7.0 CONCLUSION

7.1 It is accepted that this is an exceptionally large dwelling, however this is a particularly large plot for the development. The size of the plot is similar to others along Sandy Lane and in the opinion of officers the scale is appropriate as it will not appear cramped and contrived. This is a prominent location where a notable building would be appropriate and provided it is finished to a high standard there is no justification to recommend refusal. It will not have a detrimental impact on residential amenities

Overall it is the considered view of officers that the proposed development is in accordance with the NPPF and policies S11.2(vi), CS6, CS17, MD2 and MD12 of the Shropshire LDF.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

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

9.0 **FINANCIAL IMPLICATIONS**

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework
Settlement: S11 - Market Drayton
CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks
MD2 - Sustainable Design
MD12 - Natural Environment

RELEVANT PLANNING HISTORY:

20/02727/FUL Erection of 1no dwelling and alteration to existing vehicular access PDE
PREAPP/14/00140 Proposed erection of 3 dwellings and access PREAIP 11th April 2014
14/03216/OUT Outline planning application for the erection of 3 no. dwellings to include means
of access REFUSE 29th March 2016
17/01511/OUT Outline planning application for the erection of 2no dwellings with private
access GRANT 25th May 2017
19/05437/FUL Erection of 1no dwelling and alteration to existing vehicular access WDN 18th
May 2020
20/02727/FUL Erection of 1no dwelling and alteration to existing vehicular access PDE

Appeal

16/02466/REF Outline planning application for the erection of 3 no. dwellings to include means
of access DISMIS 9th December 2016

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 Karen Calder
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 in colour, form and texture those specified on the approved drawings.

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

4. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted AK solutions Tree Protection Plan and Arboricultural Method Statement, and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection. The protective fence and temporary ground protection shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area by protecting trees.

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

5. The access apron shall be constructed in accordance with the Shropshire Council's specification currently in force for an access and shall be fully implemented prior to the dwelling being occupied.

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

6. Visibility splays shall be provided at the access point at a point measured 2.4 metres back from the adjoining carriageway edge along the centreline of the access extending 43 metres in both directions from the access along the highway. All growths and structures in front

of these lines shall be lowered to and thereafter maintained at carriageway level and shall be fully implemented prior to the dwelling being occupied.

Reason: To provide a measure of visibility from the new access in both directions along the highway in the interests of highway safety.

7. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the Proposed Site Plan Drawing No. A102 published on 11.08.2020 prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

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

8. A minimum of [1] external woodcrete bat box[es] or integrated bat brick[s], suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on the site. The boxes shall be sited at an appropriate height above the ground, 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 opportunities for bats, in accordance with MD12, CS17 and section 175 of the NPPF.

9. A minimum of [1] artificial nest[s], of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), starlings (42mm hole, starling specific), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups) shall be erected on the site. The boxes shall be sited at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of a building if possible) with a clear flight path, and thereafter maintained for the lifetime of the development.

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

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

10. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification, no access gates or other means of closure shall be erected within 5.0 metres of the highway boundary.

Reason: To provide for the standing of parked vehicles clear of the highway carriageway in the interests of highway safety.

11. The lighting scheme for the site shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under separate planning conditions). The 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.

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. Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

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

Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

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, cycle ways & 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>

3. Bats

All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

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

If any evidence of bats is discovered at any stage then development works must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

[Any chemical treatment of timbers should not take place between the beginning of October and the end of March and no pointing or repairs of any gaps or crevices which cannot be easily seen to be empty should take place between the beginning of October and the first week in April, to minimise the possibility of incarcerating bats.]

[If timber treatment is being used then the Natural England's Technical Information Note 092: Bats and timber treatment products (2nd edition) should be consulted and a suitable 'bat safe' product should be used (see <http://webarchive.nationalarchives.gov.uk/20160913000001/http://publications.naturalengland.org.uk/publication/31005>).]

[Breathable roofing membranes should not be used as it produces extremes of humidity and bats can become entangled in the fibres. Traditional hessian reinforced bitumen felt should be chosen.]

4. Nesting birds

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent.

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and scrub removal and/or conversion, renovation and demolition work in buildings [or other suitable nesting habitat] should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are

no active nests present should work be allowed to commence.

[Netting of trees or hedges to prevent birds from nesting should be avoided by appropriate planning of work. See guidance at <https://cieem.net/cieem-and-rspb-advise-against-netting-on-hedges-and-trees/>.]

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

5. General site informative for wildlife protection

Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

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

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

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

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

[Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.]

6. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at:
<https://www.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-for-developers.pdf>

pdf

The provisions of the Planning Practice Guidance, Flood Risk and Coastal Change, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface

water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it

can be demonstrated that infiltration techniques are not achievable.

-



<u>Committee and Date</u>
Northern Planning Committee
15 th September 2020

<u>Item</u>
10
Public

SCHEDULE OF APPEALS AS AT COMMITTEE: 15th September 2020

Appeals Lodged

LPA reference	19/04571/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr L McCullough
Proposal	Outline application (All Matters Reserved) for the erection of 4no detached dwellings
Location	Land adj Crawforton Shrewsbury Road Hadnall
Date of appeal	11.06.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	20/00216/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr Robert Mulliner
Proposal	Erection of a First Floor Extension to Existing Garage to Form Hobby Room and Creation of External Staircase and First Floor Decking Area
Location	1 Pennywell Shrewsbury
Date of appeal	12.06.2020
Appeal method	Householder
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	20/01421/CPL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs Barbara Mayer
Proposal	Certificate of Lawful development for the conversion of agricultural building to a dwelling, creation of access track, hardstanding and garden area
Location	Barn South Of Hilltop Farm Hampton Wood Ellesmere
Date of appeal	25.08.20
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	20/01357/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr S Croft
Proposal	Alterations in association with conversion of existing detached cart shed into 1No residential dwelling
Location	Proposed Dwelling East Of 14 Myddlewood Myddle Shrewsbury
Date of appeal	02.09.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals Determined

LPA reference	19/04743/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegate
Appellant	Mr T Ciesielski
Proposal	Application under Section 73A of the Town and Country Planning Act 1990 for the erection of gazebo and statue
Location	Land adj to 4 The Beeches off Chester Road WHITCHURCH SY13 1NB
Date of appeal	01.04.2020
Appeal method	Written Representations
Date site visit	04.08.2020
Date of appeal decision	11.08.2020
Costs awarded	
Appeal decision	DISMISSED

LPA reference	19/04912/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs K Jones
Proposal	Erection of 1No live-work unit following demolition of existing glass houses (amended scheme)
Location	Silver Birches Bolas Road Ercall Heath TELFORD TF6 6PN
Date of appeal	23.03.2020
Appeal method	Written Representations
Date site visit	04.08.2020
Date of appeal decision	19.08.2020
Costs awarded	
Appeal decision	DISMISSED

LPA reference	19/01927/VAR
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr And Mrs Fawcett
Proposal	Removal of condition number 4 attached to planning permission reference NS/95/00558/FUL dated 05/09/1995 to allow the removal of the agricultural workers occupancy restriction
Location	Cruckmoor Cottage Cruckmoor Farm Cruckmoor Lane Prees Green
Date of appeal	06.03.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	25.08.2020
Costs awarded	
Appeal decision	Dismissed

LPA reference	19/03143/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr Mathew Dunn
Proposal	Conversion of traditional agricultural dutch barn to 1No dwelling and associated amenity space
Location	Barn South Of Ivy Farm Cottage Broughall Whitchurch
Date of appeal	10.06.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	26.08.2020
Costs awarded	
Appeal decision	Dismissed

LPA reference	19/05312/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr J Dickenson
Proposal	Formation of one additional vehicular access
Location	Sedgeford Edstaston Wem
Date of appeal	30.06.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	Allowed

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Appeal Decision

Site visit made on 4 August 2020

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 August 2020

Appeal Ref: APP/L3245/W/20/3250184

Amen Corner, 4 The Beeches, Whitchurch, Shropshire SY13 1NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr T Ciesielski against the decision of Shropshire Council.
 - The application Ref 19/04743/FUL, dated 5 November 2019, was refused by notice dated 4 February 2020.
 - The development proposed is for erection of gazebo and statue.
-

Decision

1. The appeal is dismissed.

Procedural Issues

2. The address of the appeal site is taken from the application form. However, the Council's decision notice states '*Land adjacent 4 The Beeches*'. Whilst I saw engraved plaques identifying the property as '*Amen Corner*' during my site visit, I have no evidence before me from the appellant that confirms the site address of the land has formally changed.
3. The gazebo and statue have been erected and I am therefore considering the appeal as retrospective.
4. The appellant has questioned whether the gazebo and statue required planning permission. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal.
5. From the evidence before me, it is apparent that parties have arguments in relation to the designation and lawful use of the land in regard to public open space and it being sold privately by the developer. However, the appeal before me is for the erection of a gazebo and statue, I shall therefore return to this following my reasoning.

Main Issue

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

Reasons

7. The appeal site is a parcel of land which is to the south and abuts the residential property known as no. 4 The Beeches. The land was originally designated as part of a larger housing development¹ for public open space but was subsequently sold to the appellant. The Beeches is a residential cul-de-sac and consists of a mix of housing types being two storey and bungalows, properties are within spacious plots and are characterised with open plan frontages. Despite some variation in form, the properties in the area present a discreet arrangement including the open nature of plots and frontages being free from any built form, that appreciably contributes towards the local character.
8. The gazebo is of a Victorian style and is constructed of ornate metal with a dome roof, it has part open sides but contains a seating area and is positioned on a decorative paved base. The statue has been placed within the gazebo. Observations from my site visit included that the gazebo has been installed with lighting both from the roof and by ground spotlights. Further domestic paraphernalia has been added to the land including other smaller statues, additional planting and boulders, however these did not form part of the original application and are therefore not part of this appeal decision.
9. The gazebo is located in a prominent position towards the frontage of the land and results in the structure being clearly visible in the street scene towards the entrance and from the end of the cul-de-sac. Particularly due to the open aspect of the frontages of properties and the sloping approach onto the residential estate from Chester Road. The gazebo, in combination with its overall scale, materials, depth and substantial height appears as an incongruous addition on the land. It detracts from the open nature of the character and appearance of the immediate and wider street scene.
10. This is further exacerbated by the siting of the large statue within the gazebo. The statue is of a stark appearance due to its design, materials and feature characteristics. Although, I agree with the appellant that the development may add interest to the street scene it does not make a high-quality visual contribution to the landscape and neither the nature of the footprint combined with the gazebo justify it. Accordingly, both the gazebo and statue appear at odds being visually intrusive and as dominant additions within the street scene to the detriment of the character and appearance of the area.
11. The appellant argues there are other areas on the Beeches that have incorporated open space within gardens, I have no substantive evidence to support this. Even if I did, these areas are free from any built form in comparison to the appeal site. I acknowledge that the appellant as set out in the appeal statement wishes to encourage residents of the estate to utilise the land. However, this is somewhat contradictory to the supporting statement that accompanied the application that states the gazebo *'has been placed to the front of the dwelling for the applicants ongoing pleasure and enjoyment'*.
12. Furthermore, the land, albeit as open space is now within the appellants private ownership, therefore it would be the appellants choice whether to permit public access or not, despite there being restricted covenants these would not fall within the scope of planning legislation. However, I did observe

¹ Planning Decision Application Ref: 14/02830/OUT & 15/05325/REM

at the time of the site visit that access to the land is somewhat restricted and confusing by the nature of the landscaping. Anybody wishing to access the land would have to navigate over/or through the planting, boulders and box hedge.

13. As such, I do not have any substantive evidence before me, particularly with its visual appearance that the land forming the appeal site, is land for which would serve as a public benefit with enhanced public amenity value to justify the erection of the gazebo or statue. Notwithstanding this, it does appear that the land has never been used for its intended public open space purpose given the extent and appearance of domestic paraphernalia within it.
14. For the reasons given above, I conclude that the development causes harm to the character and appearance of the area. It would be contrary to Policies CS6, CS8 and CS17 of the Shropshire Local Development Framework, adopted core strategy 2011 and Policies MD2 and MD12 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan, 2015. Amongst other things, taken together they aim to protect and enhance environmental assets, require development to be designed to a high quality, contribute to and respect locally distinctive or valued character and existing amenity value, contribute to the health and wellbeing including local amenity, quality landscaping, open space and support proposals which contribute positively to the special characteristics and local distinctiveness of an area.
15. It would also be at odds with the aims of the National Planning Policy Framework, Chapter 12 in regard to achieving well-designed places and Chapter 15, paragraph 175 in regard to biodiversity.

Other Matters

16. From the evidence before me, the lawful use of the land appears to be that of open space as set out in the original planning permission for the land. I have not seen any evidence that the lawful use of the land is garden, including that of any application which has been made under section 191 of the 1990 Act². As such, the continued lawful use of the land would be a future matter for the Council. In regard to the original developer or any subsequent landowner not carrying out the development in accordance with the approved residential planning decision and conditions the onus would fall on the Council to pursue the reasons for this and it is not a matter for the Inspector to determine.
17. I note that local residents have expressed additional concerns about the development, including health and safety, appropriateness of design of features of the statue, land and property values, erection of gate posts and other obstructions. Given my findings in relation to the main issues, it is not necessary to consider these matters in detail. The matters of legal covenants referred to in the land registry documents are not within the control of the planning system.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR

² The Town and Country Planning Act 1990 (as amended)

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Appeal Decision

Site visit made on 4 August 2020

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 August 2020

Appeal Ref: **APP/L3245/W/20/3249584** **Silver Birch, Bolas Road, Telford TF6 6PN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Jones against the decision of Shropshire Council.
 - The application Ref 19/04912/FUL, dated 6 November 2019, was refused by notice dated 6 January 2020.
 - The development proposed is demolition of existing glass houses & construction of a live-work unit.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether, the appeal proposal would constitute an acceptable form of development with particular regard to the provisions of local and national policy in respect of the location of development.

Reasons

3. The appeal site is a parcel of land and is located within the area of Ercall Heath, located outside of any identified settlement boundary and is therefore within the countryside. The land was a former agricultural nursery but now has an established lawful use of a garden associated with Silver Birch following a decision¹ under Section 191 of the Act². The site is relatively flat, well screened with vegetation and trees from views and has the reminiscence of existing glass houses. These would be demolished in their entirety for the construction of the proposed development.
4. Policy CS1 of the Shropshire Local Development Framework Adopted Core Strategy (CS), 2011 sets out the Council's strategic approach to development. It advises that development will be located predominantly in community hubs and community clusters unless it meets Policy CS5. The areas are identified within Policy MD1 and Schedule MD1.1 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan, 2015. Outside of those settlements, development will primarily be for economic diversification and to meet the needs of the local communities for affordable housing.
5. Policy CS4 of the CS requires that in rural areas, communities will become more sustainable by allowing development in community hubs and community

¹ Ref: 15/00977/CPE

² The Town and Country Planning Act 1990

- clusters that helps rebalance rural communities. Housing is required to be of an appropriate scale, mix and sympathetic to the character of the settlement and ensuring market housing make sufficient contributions to improving local sustainability.
6. Policy CS5 relates to countryside and Green Belt development. It advises that new development will be strictly controlled in accordance with national planning policies including protecting the countryside. It sets out the exceptions, where proposals maintain and enhance the countryside vitality and character where they improve the sustainability of rural communities. This includes "*small-scale new economic development diversifying the rural economy, including farm diversification schemes*" and "*dwelling to house agricultural, forestry or other essential countryside workers and other affordable housing / accommodation to meet a local need*". The exceptions require applicants to demonstrate the need and benefit for the development and expects it to take place primarily in recognisable named settlements or be linked to other existing development and business activity.
 7. The appeal site is located within an area that does not fall within any identified settlement or the development boundary. It is also not part of any allocated development site, hub or cluster set out in the development plan. Whilst the appellants accept that the site is beyond any defined development boundary, they consider that the proposal for a live/work unit would support sustainable, innovative development creating economic diversity within the rural environment.
 8. Therefore, looking at whether it would fall within one of the exceptions. The appellant's design and access statement³ sets out that the live/work unit combines domestic accommodation with some form of commercial, office or workshop space at one location. It considers the primary benefit would be that the occupants can live and work without the need to commute. The need for the development states that the appellants have lived at Silver Birch for over 30 years and the existing property is now too large and they wish to downsize.
 9. Furthermore, they wish to re-locate a small business for testing, development and consultancy services for sauna and steam room products within the proposed live/work unit. This is currently carried out in premises at Wolverhampton. The appellants claim that they have been unable to locate to suitable business premises in the locality of the appeal site and therefore require an appropriately sized dwelling with a workshop/business space. Vehicle movements associated with the business would not be expected to exceed ten per week. However, I have not been provided with any substantive evidence of searches / land availability for comparison or the nature of trip generations of vehicles that would be required in connection with the business.
 10. Although, there are no specific individual policies within the CS or the SAMDev that relate to live/work units. CS Policy CS13 encourages home based enterprise, the development of business hubs, live-work schemes and appropriate use of residential properties for home working. Policy MD7a of the SAMDev permits dwellings to house essential rural workers where it meets certain criteria. It requires relevant financial and functional tests are met and that the cost of the dwelling can be funded by the business. The appellants

³ Design & Access Statement for Proposed Live-Work Unit, (Jennings Homer & Lynch) dated March 2019

have referred to PPS3, PPS4 and PPS7, however these were superseded by the National Planning Policy Framework (the Framework).

11. Nevertheless, in the absence of any specific policy it is appropriate to assess against the consistency with the Framework. Paragraph 77, in rural areas advises that planning policies and decisions should be responsive to local circumstances that reflect local needs. Paragraph 78 promotes sustainable development '*housing should be located where it will enhance or maintain the vitality of rural communities*'. Paragraph 79 sets out the circumstances where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. Whilst, Paragraph 81 requires planning policies to support flexible working practices (*such as live-work accommodation*).
12. The evidence before me is limited on the exact details of the business requirements itself, including its functionality or justification of why it would need/required to be located within the countryside, outside of any settlement boundary. There appears to be no association to any existing development or other rural enterprises within the locality or wider area of Shropshire. Furthermore, I do not consider the nature of the business would be one that would be associated as part of the diversifying rural economy and would contribute to supporting the local rural community, including maintaining its vitality.
13. Moreover, there is no substantive evidence that the business requires a combined live/work unit to support its continuing growth or it is an essential need for the appellants to live/work together to support the daily needs of the business. Despite, the Council's delegated report setting out that there are net profits, I have not seen any evidence of this, and that the business could support the construction of the live/work unit and remain profitable thereafter.
14. I acknowledge that there would be some benefits including that the existing structures are unattractive, they do not provide or contribute to the rural setting and this would be improved by redevelopment of the site. The proposed development would also incorporate energy saving design and environmental features. Notwithstanding this, the appellants desire to downsize a property does not justify the need for a new dwelling in the countryside, albeit a live/work unit.
15. Economic benefits would arise from the reduction of the appellants journey times and the need to commute to Wolverhampton. However, this would be minimal as it would result in additional commercial vehicle movements to and from the site for the business. Furthermore, there is little in the way of day to day services and facilities within Eccles Heath. The appeal site is not served by public transport and there are no footpaths in place or street lighting to enable safe navigation by walking to access the services and facilities within Tibberton, approximately 2 miles away. As such, future occupants of the development would be largely reliant on the private motor car to access services and facilities.
16. However, the development would be located between existing properties along Bolas Road. Having had regard to the High Court judgement⁴ regarding

⁴ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)

paragraph 55 (now paragraph 79) of the Framework, this physical location would not result in a new isolated home in the countryside that the Framework seeks to avoid. Thus, there would be no conflict with paragraph 79 of the Framework only in this regard. Despite this, there would still be minor negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services. Moreover, there is no essential need demonstrated that the appellants need to live permanently at their place of work, or the business needs to be within a countryside location.

17. For the reasons given above, I conclude the proposal would not constitute an acceptable form of development within the countryside location. Consequently, the proposal would not accord with the aims of Policies CS1, CS4, CS5, CS6, CS10, CS13 of the CS, 2011 and Policies MD1, MD2, MD7a of the SAMDev, 2015, for the reasons already set out above, and that these policies seek to restrict development that fall outside of any settlement development boundary. Furthermore, these policies are consistent with the aims and objectives of the Framework, and as such the proposed development would be at odds with it.

Other Matters

18. The appellants refer to a 2018 scheme in Wolverhampton, I do not have full details of the circumstances that led to the proposal being accepted, particularly as the site appears to be in the Green Belt. As such, I cannot be sure that it represents a direct parallel to the appeal proposal, including in respect of, location and development plan policy. I have also had regard to an appeal decision brought to my attention by a third party⁵, however this appears to relate to development in a community cluster unlike the appeal before me. In any case, I have determined the appeal on its own merits.
19. Although, there are no concerns raised in regard to ecology, trees, landscaping, highway safety/access, residential amenity and flooding. These do not outweigh the issues I have raised. In regard to the comments on the siting, scale and design of the live/work unit, given my findings in relation to the main issue, in regard to the proposal not being an acceptable form of development within the location it is not necessary to consider these matters in detail.
20. In regard to the engagement of the Council throughout the planning process, the beneficial use of the site, not meeting obligations to ensure a supply of varied residential or commercial properties including live/work units in Shropshire. I have not seen any substantive evidence to suggest that the Council has not been forthcoming.

Conclusion

21. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
22. For the reasons given above I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR

⁵ APP/L3245/W/15/3009723



Appeal Decision

Site visit made on 11 August 2020

by **Gareth W Thomas BSc(Hons) MSc(Dist) PgDip MRTPI**

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

Decision date: 25 August 2020

Appeal Ref: APP/L3245/W/19/3241312

Cruckmoor Cottage, Prees Green, Whitchurch SY13 2BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Ruth Fawcett against the decision of Shropshire Council.
 - The application Ref 19/01927/VAR, dated 27 April 2019, was refused by notice dated 9 September 2019.
 - The application sought planning permission for the erection of an agricultural workers dwelling with integral garage and septic tank without complying with a condition attached to planning permission Ref NS/95/00558/FUL, dated 15 November 1995.
 - The condition in dispute is No 4 which states that: As the development hereby approved would be unacceptable unless justified by the needs of agriculture and because the agricultural unit requires two dwellings to be retained on the grounds of essential agricultural need, the occupation of the new dwelling and existing farm house shall be limited to persons solely or mainly employed (or last employed) in the locality in agriculture as defined in Section 336 of the Town and Country Planning Act 1990, or dependents of those persons residing with them including a widow or widower.
 - The reason given for the condition is as detailed in the condition itself.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council does not argue for the retention of the agricultural tie having accepted the appellant's case during the application process and I have no evidence to disagree with that view.

Main Issue

3. Accordingly, I consider the main issue in this appeal is whether the proposal is acceptable in relation to the prevailing requirements concerning the provision of affordable housing.

Reasons

4. Cruckmoor Cottage is a detached dwelling house located in the countryside.
5. Policy CS11 of the Shropshire Core Strategy requires all new open market housing developments to make appropriate contributions to the provision of affordable housing having regard to the current prevailing target rate, set using

the Shropshire Viability Index. For sites of 5 or more dwellings the provision of affordable housing is expected on site. For existing dwellings where there is no cap to floorspace (normally 100sqm), a financial contribution is calculated based on the total floor space. It has not been made clear whether the policy would apply to the existing farmhouse as well as the appeal property.

Notwithstanding, the Council's approach is to require a section 106 Agreement to be entered into before planning permission is granted which establishes the commitment to provide an affordable housing contribution by reference to the formula figure. The Council's adopted Type and Affordable Housing Supplementary Planning Document (SPD) forming part of the Shropshire Local Development Framework provides detailed guidance as to the Council's requirements. It makes clear that a standard section 106 legal agreement will be required and provides model agreements in connection with this. It is expected that applicants for planning permission should complete and submit an Affordable Housing Pro-forma so that the required calculations for financial contributions can be made by the Council's Affordable Housing Officer. The appellant has failed to provide a completed pro-forma.

6. The appellant maintains that a financial contribution is not necessary for all small-scale developments and that applying such contributions to single dwellings runs contrary to Government policy. However, it is clear that the development plan policy and relevant SPD requires such contribution where an open market house is created. A contribution to affordable housing provision in exchange of removing the agricultural tie would be in line with the Council's adopted policies. For this to take effect, a section 106 agreement must be in place before granting planning permission. There is no section 106 obligation in place, either by way of agreement entered into with the Council or alternatively by way of a unilateral undertaking, which would normally provide the necessary legal commitment to appropriate affordable housing provision that would be triggered by a planning permission.
7. Whilst paragraph 63 of the National Planning Policy Framework (the Framework) explains that an affordable housing contribution should not be sought where the number of open market dwellings is below the thresholds referred to in the Framework, the Council has explained that rural affordable housing is critical in rural Shropshire and that it has a designated Rural Area that supports a lower threshold. In the light of development plan policy supporting this designation, I attach full weight to the development plan policy and its associated SPD.
8. Accordingly, I conclude that the absence of a completed legal agreement that would secure an appropriate contribution towards affordable housing provision elsewhere in line with the Council's policies renders the proposal in conflict with Policy CS11 and the SPD and represents an overriding reason why planning permission should be withheld.

Other Matters

9. The appellant claims that the Council has not fully explained its policy requirements, which has resulted in much confusion. However, this is a matter between the parties and I am satisfied that the policy documentation provided in the appeal clearly explains these requirements.

Conclusion

10. For the reasons given, without a commitment to making an affordable housing contribution, the development plan policy should prevail. Thus, the appeal fails and the condition is retained.

Gareth W Thomas

INSPECTOR

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Appeal Decision

Site visit made on 25 August 2020

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2020

Appeal Ref: APP/L3245/W/20/3254049 Sedgeford, Edstaston, Wem, Shropshire SY4 5RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr John Dickenson against the decision of Shropshire Council.
- The application Ref 19/05312/FUL, dated 3 December 2019, was approved on 2 April 2020 and planning permission was granted subject to conditions.
- The development permitted is the formation of one additional vehicular access.
- The condition in dispute is No 4 which states that: Vehicular access to the adjoining highway shall be limited to the new access only as indicated on drawing no SA35062_H01 Rev.B dated 13th November 2019 and the existing access shall be permanently closed in accordance with details to be submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall be completed before the new access is brought into use.
- The reason given for the condition is: In the interest of amenity and highway safety.

Decision

1. The appeal is allowed and planning permission Ref 19/05312/FUL for the formation of one additional vehicular access at Sedgeford, Edstaston, Wem, Shropshire SY4 5RG, granted on 2 April 2020 by Shropshire Council, is varied by deleting condition No 4.

Background and Procedural Matters

2. S79(1) of the Town and Country Planning Act 1990 allows me to allow or dismiss the appeal or reverse or vary any part of the decision (whether the appeal relates to that part or not) and I may deal with the application as if it had been made to me in the first instance.
3. The planning application sought permission for an additional vehicular access at the site to improve visibility on egress and avoid the necessity to carry out reversing manoeuvres within the highway by providing an in-out arrangement for vehicles. The approved plans show the proposed arrangement of both access points linked by an internal drive.
4. The Council sought the views of their highway advisors who supported the proposal subject to a requirement to implement the illustrated visibility splays. However, an additional condition to require the blocking up of the existing access was imposed by the Council in the interests of highway safety and amenity. The appellant's request to remove this condition would enable the existing access to be retained in addition to the proposed new access.
5. Condition 4 refers to plan number SA35062_H01 Rev.B which is not listed as an approved plan. A copy of this plan has been provided on request for completeness and I have considered it alongside the listed approved plans.

Main Issue

6. The main issue is the effect of retaining the existing vehicular access on highway safety.

Reasons

7. The site lies on a two-way national speed limit road (B5476) within a small cluster of development lying either side of the road. It is situated close to a junction with a small rural lane and adjacent to a substantial access serving properties and a farmstead located to the northwest. The carriageway curves in opposing directions on the main approaches from the north and south.
8. The position of the existing driveway is such that visibility in both directions is limited by the curvature of the adjacent road. The approved new access point would have the benefit of enabling increased visibility on egress in both directions and would be positioned further from the nearby road junction. Additionally, forward visibility to vehicles using the access from both approaches would be enhanced.
9. The Council's evidence recognises that the proposal would benefit from vehicles being able to leave the site in a forward gear and would provide suitable access geometry and internal arrangements to facilitate the safe use of the proposed access. Accordingly, there is no dispute between the parties that the proposal would provide improvements to highway safety in serving the appeal site.
10. However, the Council's report highlights that, in the absence of a mechanism to restrict vehicle movements in a manner that would prevent use of the existing driveway for egress, a highway safety concern would remain on account of its poorer visibility. Nevertheless, even if vehicles used the existing access in a reverse gear, despite having the ability to turn within the site, that situation would be no worse than the existing position in highway safety terms.
11. Whilst recognising that a second point of entry would introduce a further point of potential conflict for highway users, I find that the benefits of its provision against the limitations of the existing point of access would outweigh any harm arising from its continued use in conjunction with the proposed access.
12. For the above reasons, I conclude Condition 4 is not reasonable or necessary in the interests of highway safety. Without it the proposed development would be consistent with the requirements of Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) as it seeks to secure safe and accessible forms of development.

Conclusion

13. For the reasons given above, I conclude that the appeal should succeed, and the planning permission is varied by deleting the disputed condition.

R Hitchcock

INSPECTOR