

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

Date: Monday, 30 November 2020

**Committee:**  
**Northern Planning Committee**

**Date:** Tuesday, 8 December 2020  
**Time:** 2.00 pm  
**Venue:** Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,  
Shropshire, SY2 6ND

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<https://www.shropshire.gov.uk/northernplanningcommittee8december2020/>

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Claire Porter - Director of Legal and Democratic Services

**Members of the Committee**

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

**Substitute Members of the Committee**

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

Your Committee Officer is:

**Emily Marshall** Committee Officer

Tel: 01743 257717

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

# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes

To confirm the Minutes of the meeting of the North Planning Committee held on 10<sup>th</sup> November 2020, attached, marked 2. Minutes to Follow

Contact: Shelley Davies on 01743 257718.

## 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, 4<sup>th</sup> December 2020.

## 4 Disclosable Pecuniary Interests

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

## 5 Land North Of Green Lane Farm, Abbeygreen, Whixall, Shropshire (20/04102/FUL) (Pages 1 - 16)

Erection of a one local needs dwelling with a detached double garage (resubmission)

## 6 Hencote Farm, Cross Hill, Shrewsbury, Shropshire, SY4 3AA (19/05538/FUL) (Pages 17 - 38)

Change of use of land for the erection of 26 Holiday Lodges and provision of parking areas and associated landscaping

## 7 Appeals and Appeal Decisions (Pages 39 - 58)

## 8 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 12<sup>th</sup> January 2021.



Committee and Date  
Northern Planning Committee  
8<sup>th</sup> December 2020

Item  
**5**  
Public

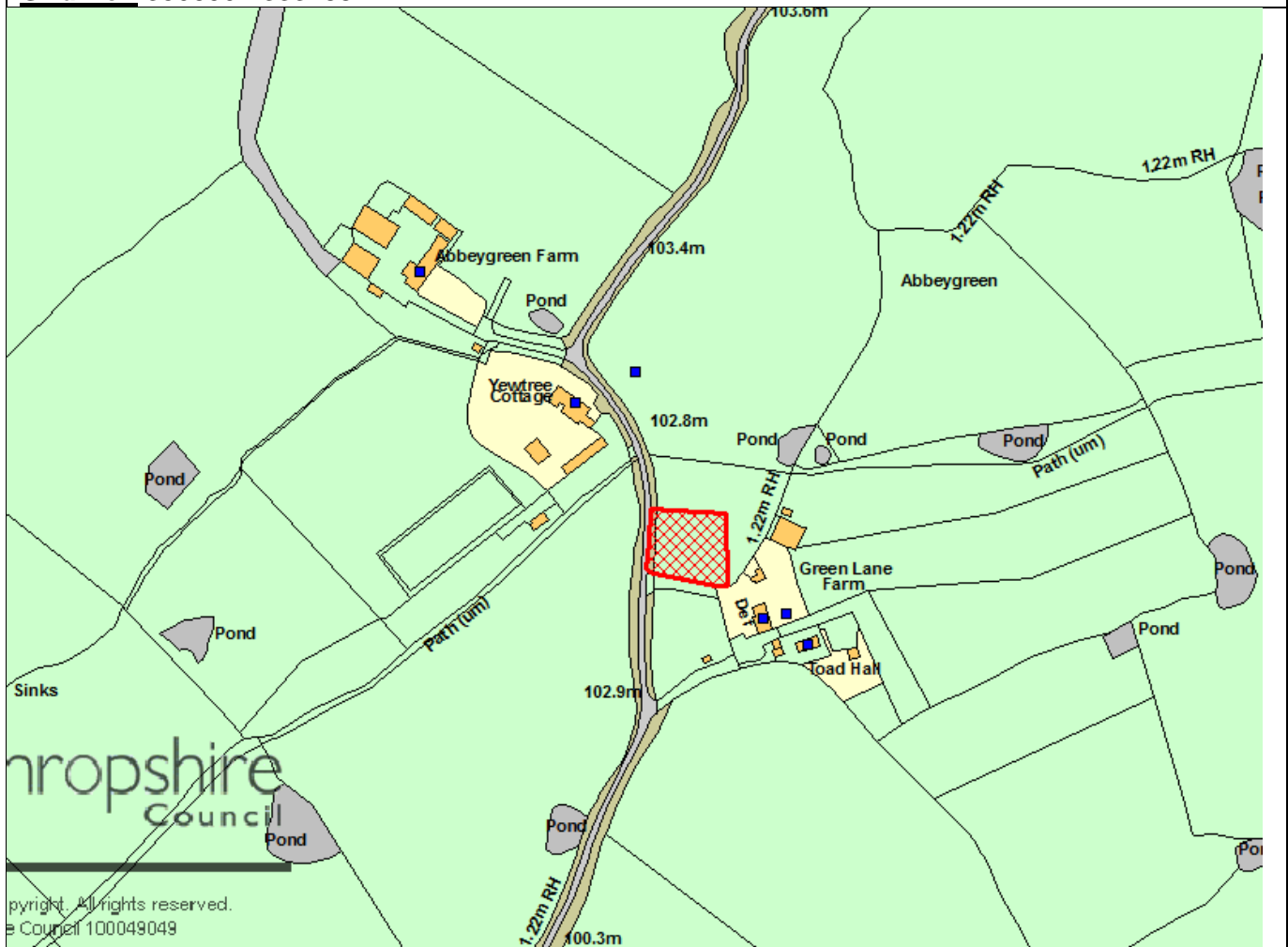
## Development Management Report

Responsible Officer: Tim Rogers

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

### Summary of Application

<b>Application Number:</b> 20/04102/FUL	<b>Parish:</b>	Whixall
<b>Proposal:</b> Erection of a one local needs dwelling with a detached double garage (resubmission)		
<b>Site Address:</b> Land North Of Green Lane Farm Abbeygreen Whixall Shropshire		
<b>Applicant:</b> Ms Susanne Whitley		
<b>Case Officer:</b> Alison Lloyd	<b>email :</b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a>	
<b>Grid Ref:</b> 350690 - 333188		



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## Recommended Reason for REFUSAL

### REPORT

#### 1.0 THE PROPOSAL

- 1.1 The application seeks planning approval for the erection of a detached local needs dwelling with a detached double garage, and the formation of a driveway and on site parking area. This is a resubmission following the recent refusal, planning application reference: 20/01723/FUL.

#### Associated Recent Planning History

- PREAPP/18/00466 - Erection of affordable dwelling - Unacceptable development
- 19/04923/FUL - Erection of affordable dwelling - Refused
- 20/01723/FUL - Erection of affordable dwelling - Refused

- 1.2 Whilst the pre-application advice was clear in advising that the development of the site was not compliant with planning policy, the applicant chose to pursue the proposed development, for the reason as detailed within the pre-application advice response the formal application submitted in 2019 was refused.

- 1.3 The applicant then submitted an application again for an affordable dwelling on land south of the initial site, this was again refused, reason for refusal is detailed below:

*"Whilst the applicant has demonstrated that she is in local housing need, the siting and design of the dwelling is considered contrary to planning policies and deemed unacceptable. The proposed siting of the dwelling house will adversely affect the landscape and the rural character of the area. The proposed development would be exposed and visible from the passing highway and due to the open nature of the site, the dwelling will have a clear prominent position within the rural setting and is therefore not considered acceptable due to the visual impact and harm caused.*

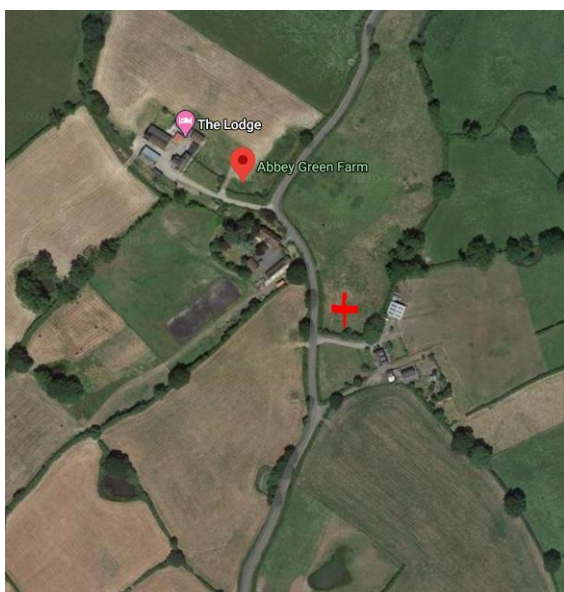
*This application is contrary to planning policies CS5, CS6, CS17, MD02, MD07a and MD13 of the Shropshire Core Strategy and the SAMDev Plan, along with the aims of the National Planning Policy Framework (NPPF) published February 2019, and The Type and Affordability of housing SPD 2012 and is therefore recommended for Refusal "*

## 2.0 SITE LOCATION/DESCRIPTION

2.1 The land to which this application relates is within a rural countryside location and is bounded by countryside land, with the highway located to the west. Land associated with Green Lane Farm adjoins the site to the south / east. The site is currently a grass field with an agricultural land use.

Green Lane Farm sits to the south / east, with a small scatter of farmsteads in the locality. The nearest recognised settlement to this site is the loose-knit settlement of Whixall, to the north. The land to which this application relates is detached from the main settlement area.

2.2 Approximate location of site is mark with a red cross below: Aerial image of the site in the context with the rural setting.



2.3 The existing field access to the western boundary is to be improved and utilised to support the proposed development.

## 3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

3.1 Whixall Parish Council and the Local member support the application as the applicant meets the local needs criteria, however the application is contrary to both local and national planning policies, therefore the Officers recommendation is for Refusal. The matter has been discussed with the Committee Chair and Vice-Chair, it was agreed that the as the local member called the application into committee within 21 days on the application process the application is worthy of Committee consideration.

## 4.0 Community Representations

### 4.1 Consultee Comments

#### 4.1.1 Archaeology Officer

The proposed development site is located c. 100m south of the degraded earthwork remains of an enclosure of possible Iron Age date (HER PRN 34299). It is therefore possible that below ground archaeological remains associated with the proposed enclosure are present on the proposed development site. For these reasons it is considered to have low-moderate archaeological potential.

It is noted that the application is accompanied by a Heritage Impact Assessment by Richard K Morriss & Associates. This fails to mention the above enclosure site and does not therefore make any assessment of potential impacts on any archaeological remains associated with it. As a result, it is advised that the Heritage Impact Assessment is deficient in relation to the requirements set out in Policy MD13 of the Local Plan and Paragraph 189 of the NPPF.

However, notwithstanding this point, and in relation to both Policy MD13 of the Local Plan and Paragraph 199 of the NPPF, if the decision taker is minded to approve the application it is advised that a programme of archaeological work should be made a condition of any planning permission. This should comprise an archaeological watching brief on the intrusive ground works for the proposed dwelling. An appropriate condition of any such consent would be: -

**Suggested Conditions:**

No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest

- 4.1.2 Historic Environment Officer  
Comments from previous application:  
"Whilst we consider there to be no harm to the significance of listed building we would also suggest that there appears to be little justification for the location of the proposed dwelling. We would also have concerns regarding the impact of the proposed development on the landscape character of the area through this form of development"
- 4.1.3 SUDs  
Surface Water Informative Notes provided.
- 4.1.4 Severn Trent Water  
No commented received to date
- 4.1.5 Affordable Housing Officer  
I have received correspondence from Ms Whitley and have recently been able to reconfirm her eligibility, my supporting comments remain unchanged from her two previous applications 19/04923/FUL and 20/01723/FUL
- 4.1.6 Highways  
No objection – subject to the development being constructed in accordance with the approved details and the advised conditions and informative notes.
- 4.1.7 Ecology Officer  
No objection conditions and informatives advised
- 4.1.8 Rights of Way Team  
No comments received to date

## 4.2 Public Comments

### 4.2.1 Whixall Parish Council

The Parish Council has not changed its stance and continues to support this application.

### 4.2.2 Cllr Chris Mellings :

*"In the event of Officers recommending refusal I would ask that the application is referred to Committee for a decision. Abbey Green is a distinct area of Whixall running from Yew Tree House through to Holly Farm - forming a loose knit, linear settlement pattern either side of the road. Abbey Green is clearly indicated on the OS map and forms part of the address of properties making up Abbey Green. The proposed location is in a concentrated part of the settlement between Toad Hall and Abbey Green Farm (it is not detached) so the residential precedence is already set."*

4.2.2 A site notice was displayed on the site from 16.10.2020 for a 21day period.

### 4.2.3 Public Representations x 1 objector

- Ecological letter dated 8/10/20 states the applicant is the owner of Yew Tree Cottage, this is not correct. They reside in a static caravan within the boundary of Yew Tree Cottage.
- The applicant made themselves homeless on purpose in order to apply for permission to build a house on agricultural ground they own but rent out.
- The proposed site is agricultural land should it not be subject to agricultural restrictions as the applicant only has domestic horses and dogs, no other livestock and works in office administration.

## 5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design of structure

Impact to the Listed Building /Surrounding Amenity / Landscape

Highways

Drainage

Affordable Housing

Ecology Matters

## 5.1 Relevant Planning Policy

Shropshire Core Strategy

CS05: Countryside Development

CS6: Sustainable Design and Development Principles

CS11: Type and Affordability of Housing

CS17: Environmental Networks

CS18: Sustainable Water Management

SAMDev Plan

MD02: Sustainable Design

MD7a: Managing Housing Development in the Countryside

MD12: The Natural Environment

MD13: Historic Environment

The Type and Affordability of housing SPD 2012  
National Planning Policy Framework

**6.0 OFFICER APPRAISAL**

**6.1 Principle of development**

6.1.1 The Housing Supplementary Planning Document (SPD) and policy CS11 'Type and Affordability of Housing' of the Core Strategy provides a positive support framework for the consideration of single plot exception sites in open countryside subject to a number of criteria including location, size of dwelling and local housing need.

6.1.2 A site for a single plot exception affordable dwelling needs to be in a location that demonstrably forms part of a recognised settlement.

If the planning application is successful, it will be subject to the applicant entering into a section 106 agreement, which will ensure future sales of the property will be to another local qualifying person for the formula price which is expressed as a percentage of open market value.

6.1.3 Following correspondence with the Affordable Housing Officer it has been confirmed that, Ms Whitley has demonstrated a local connections to the administrative area. After considering her housing needs and personal circumstances, it is considered that the requirements of the Supplementary Planning Document in relation to the 'build your own affordable home scheme' have been satisfied by the applicant.

6.1.4 The location of proposed Single Plot Exception sites is referenced in Shropshire Councils SAMDev Policy adopted on 17th December 2015.

**MD7a : Managing Housing Development in the Countryside:**

- Suitably designed and located exception site dwellings and residential conversions will be positively considered where they meet evidenced local housing needs and other relevant policy requirements.
- In order to protect the long term affordability of single plot exception dwellings, they will be subject to size restrictions and the removal of permitted development rights, as well as other appropriate conditions or legal restrictions.

"3.53 Exception sites for local needs affordable housing on suitable sites adjoining recognisable named settlements are allowed by Core Strategy Policies CS5 and CS11 as an exception to normal policies. This also applies to suitable sites adjoining settlements in the Green Belt. Exception site proposals should meet the detailed criteria on site suitability, "local need" and eligibility contained in the Type and Affordability of Housing Supplementary Planning Document."

**The Type and Affordability of housing SPD 2012:**

Paragraph 5.13 states that: other than when built as part of the rural occupational dwelling scheme, (Section 3 of this SPD), exception sites must be demonstrably part of, or adjacent to, a recognisable named settlement. Larger settlements, such as market towns and villages, obviously qualify as recognizable named settlements. Guidance is provided in paragraphs 5.15 to 5.17 regarding whether a



small hamlet or group of houses qualifies as a recognizable named settlement.

Paragraph 5.14 states that: sites that do not lie in a settlement, constituting isolated or sporadic development, or which would adversely affect the landscape, local historic or rural character (for example due to an elevated, exposed or other prominent position) are not considered acceptable.

The views of the local Shropshire Council Member about whether the site is in or adjoining a recognisable settlement as required by Core Strategy Policy CS11 will be canvassed by the case officer at the pre-application stage to inform their professional judgement. The case officer may seek the views of the Parish Council for additional assistance in cases where it is a finely balanced judgement.

The officer informed the local members of the pre-application request with regards to a single plot exception dwelling on this site on the 10.09/2018, no response was received. However during the previously refused application Cllr Mellings comments were as follows:

*“From my discussions with the agent and applicant, in my view this is appropriate and the location meets the settlement criteria set out in the Council's policy.”*

The local member and Parish Council continue to support the proposed development.

- 6.1.5 The land to which this application relates is within a rural countryside location, Officers acknowledge that Green Lane Farm is located to the south of the site, however the proposed dwelling will be bounded by countryside land to all boundaries with the highway located to the west, beyond the highway is countryside land. The site is currently a grass field with an agricultural land use.

The land to which this application relates is detached from the main settlement area of Whixall. The proposed site does not have any built development adjoining the site boundaries and would result in isolated development, and will be clearly prominent within the rural setting, having an adverse effect on the surrounding countryside landscape, local historic and rural character. The proposed development would be exposed and visible from the passing highway, therefore due to the open nature of the site the dwelling will have a clear prominent position within the rural setting and is not considered acceptable.

- 6.1.6 The agent does not dispute that the site is not within the recognised settlement of Whixall, however feels that the site falls within an area known as Abbey Green and this area is referred to as a Hamlet on the "Get outside App" as screen shot of this has been provided. The agent also goes on to list applications for affordable dwellings approved within north shropshire varying from 2010 through to 2016, however none of these application sites are near the subject site or in the Abbey Green jurisdiction, furthermore the approved sites have adjoining development to the site boundaries ensuring the approvals do not result in isolated or sporadic development.

The type and affordability of housing SPD, advises how the suitability of each proposed site should be considered on its individual merits; *Each case is treated on its merits, but the following guidelines apply when assessing whether a small hamlet constitutes a “recognisable named settlement”. A settlement always*

***comprises a group of houses occupied by households from different families. The group becomes a settlement due to the number and proximity of the houses in the group*** [evident from the OS Plans and aerial imagery]. *Although a matter of judgment in each case, particularly for settlements where the number is small or where the houses are dispersed, for example strung along a road, it is the combination of these two factors that determines whether the dwellings constitute a settlement.*

The screenshot below shows the existing development surrounding the proposed site as it is currently, consisting of four sites:

- Green Lane Farm,
- Abbeygreen Farm,
- Yew Tree Cottage,
- Toad Hall

These farm holdings sit north and south of the site and do not adjoin the site boundaries, it is of the officers opinion that the four disperse properties does not form a recognised settlement



- 6.1.7 This application is a re-submission following a recent refusal issued, no changes have been made to the proposed development, the application has been re-submitted with the request that the application it taken to the next planning committee meeting.

## 6.2 Siting, scale and design of structure

- 6.2.1 The proposed dwelling has been located north of Green Lane Farm, and south of Yew Tree Cottage, Yew Tree Cottage is a listed property. A detached garage is also proposed alongside the local need dwelling, affording space for the applicant to park vehicles and store garden tools, bikes etc.
- 6.2.2 The house type designed is in accordance with the guidance afforded single plot affordable dwellings and is not more than 100sqm Gross Internal Floor Area. The dwelling will consist of a lounge, hallway, dining room, kitchen and WC to the ground floor, with two bedrooms, a landing area and a bathroom to the first floor.

6.2.3 It is proposed that the dwelling house will be rendered with a brick plinth around the base of the property, with a traditional tiled roof. Dormer style windows will feature within the proposed design. The agent has provided images of dwellings within the locality to justify the proposed design feature and materials put forward.

6.2.4 The proposed dwelling will be situated away from Yew Tree Cottage on a separate parcel of land to the South / East, the dwelling will be surrounded by countryside land to the north, east and south, with the highway running along the sites west boundary.

The applicant has stated that they work at the nearby site Yew Tree Cottage and in turn will provide care to their parents in the long term.

It has been suggested by Officers that a revised location on land within the domestic curtilage of Yew Tree Cottage, within the family's ownership and control should be explored, as it would not only better relate to the existing surrounding development and rural setting, minimising the visual impact caused, it will also be a practical location for the occupant of the affordable dwelling.

The proposed development in this location would be exposed and visible from the passing highway, and due to the open nature of the site, the dwelling will have a clear prominent position within the rural setting and is therefore not considered acceptable.

### **6.3 Impact to Listed Building /Surrounding Amenity / Landscape**

6.3.1 The proposed development site is located c. 100m south of the degraded earthwork remains of an enclosure of possible Iron Age date (HER PRN 34299). It is therefore possible that below ground archaeological remains associated with the proposed enclosure are present on the proposed development site. For these reasons it is considered to have low-moderate archaeological potential.

6.3.2 It is noted that the application is accompanied by a Heritage Impact Assessment by Richard K Morriss & Associates. This fails to mention the above enclosure site and does not therefore make any assessment of potential impacts on any archaeological remains associated with it. As a result, it is advised that the Heritage Impact Assessment is deficient in relation to the requirements set out in Policy MD13 of the Local Plan and Paragraph 189 of the NPPF.

However, notwithstanding this point, and in relation to both Policy MD13 of the Local Plan and Paragraph 199 of the NPPF, it is advised that a programme of archaeological work should be made a condition of any planning permission for the proposed development. This should comprise an archaeological watching brief on the intrusive groundwork's for the proposed dwelling.

#### **6.3.3 Historic Environment Officer Comments**

A heritage impact assessment has been submitted and is sufficient to address the requirements of para 189 of the NPPF and we would not disagree with its' conclusion that the proposed development will not harm the significance of the designated heritage asset, Yew Tree Cottage, nor the non-designated heritage assets.

The design of the proposed dwelling has not changed from the last submission and the comments made previously still stand, namely: ...*“having dormers takes some reference from Yew Tree Cottage, but it is true to say that most dwellings in the area are longer and narrower and do not have dormers as part of their design detailing rather windows at eaves height of just below and presenting less roof.”*

Previously we made some suggestion regarding possible alternative locations for a dwelling with a view to incorporating into the main complex of Yew Tree Cottage, due to the need to attend to elderly parents and horse liveries both at Yew Tree Cottage. If a dwelling were to be located within the complex it could better take the form of a farm building rather than the design indicated in this submission, however, this would need careful consideration to ensure that no harm to the significance of Yew Tree Cottage could not be mitigated.

There may be no impact on heritage assets by the proposed development we would suggest that the rural character and appearance of the area could be impacted upon by the proposal. Developments of this type have the potential to have an adverse impact on the landscape character of the area.

We have concerns regarding the impact of the proposed development on the landscape character of the area through this form of development.

- 6.3.4 The proposed siting of the dwelling house will adversely affect the landscape and the rural character of the area. The proposed development would be exposed and visible from the passing highway, and due to the open nature of the site, the dwelling will have a clear prominent position within the rural setting and is therefore not considered acceptable due to the visual impact and harm caused.

## **6.4 Highways**

- 6.4.1 The development proposes the erection of a local needs house on land slightly further to the south of the recently refused development under reference 19/04923/FUL on planning policy grounds.

This is a re-submission of a recently refused application under reference 20/01723/FUL. The proposed access and parking arrangements have not been amended from the previous submission and continue to be considered to be acceptable for the prevailing highway conditions.

- 6.4.2 The proposed access, parking and visibility provision are considered to be acceptable for the proposal and in line with the prevailing highway conditions. Based upon the information submitted it is considered that, subject to the conditions listed by the Highways Officer being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

## **6.5 Drainage**

- 6.5.1 Referring to the Environment Agency Flood Maps, it is apparent that the site does not sit in a flood plain.

It is proposed to discharge the foul water via a package treatment plant. The surface water and outfall from the package treatment plant will discharge into the

ditch course to the north of the proposed property. The applicant has asked that the drainage design be conditioned should planning permission be successful.

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

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, 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

## 6.6 Affordable Housing

- 6.6.1 Rural Housing Enabler Officer, Clare Hughes:

*"I can confirm that Ms Whitley has demonstrated strong local connections to Whixall Parish Council local administrative area. After considering her housing needs and personal circumstances, I can confirm that the requirements of the Supplementary Planning Document in relation to the build your own affordable home scheme have been satisfied.*

*The Local Housing Need elements of this application were established as follows from information presented to the Housing Enabling and Implementation Team in September 2019. Due to a change in personal circumstances Mrs Whitley and her daughter have been living in a caravan at Yew Tree Cottage. This accommodation is not deemed a long-term solution to her and her families housing needs.*

*Whixall Parish Council in a letter were able to formally confirm that at a meeting on 12th June 2019 they were able to approve Ms Whitleys local connection. Ms Whitley as well as working on a part time basis in the immediate area provides care and support to her parents. Mr and Mrs Bryant have livestock kept at their small holding which they are unable to take care of without Ms Whitleys assistance. Ms Whitley also undertakes livery and cares for her own horses which are kept at Yew Tree Cottage.*

*As part of the application a doctor's letter has been provided which confirms the health problems Mr and Mrs Bryant have. From financial information provided Ms Whitley is unable to purchase a suitable property to meet her current and future needs due to the lack of smaller lower value affordable properties available locally. Therefore, Ms Whitley has demonstrated housing need, strong local connections and a need to live in the local area. Moreover, due to issues of affordability and availability she is unable to meet her own housing need within the parish without assistance from this policy."*

6.6.2 Whilst the applicant meets the housing needs criteria, the development as proposed is contrary to planning policies as detailed above and will therefore not gain the support from planning officers.

## 6.7 Ecology Matters

6.7.1 The site is currently an agricultural field with mature hedge to the southern boundary. Proposed Planting to the north / east and north / west corners of the site is proposed. The amenity space will be lawned alongside the parking and turning area being constructed from a permeable hardstanding. Clearly resulting in the domestication of the rural setting.

6.4.2 An Ecology Survey was completed in May 2019 and this report is submitted with the application. It concluded there was no significant adverse impact upon the local ecology and suggests several ecology enhancements.

### Habitats

The site comprises semi-improved grassland and hedgerow. A 3m section of hedgerow will be removed to provide access into the site. The grassland habitats present are of low ecological value and the vast majority of the hedgerow will be retained.

### Bats

Greenscape state that bats are likely to be foraging and commuting in the local area and that a bat box should be provided on the site and that lighting should be low level and avoid light spill outside of the site.

### Nesting Birds

There is potential for nesting wild birds to be present on the site. Vegetation removal should occur outside of the bird nesting season and a bird box should be provided.

### Great Crested Newts

There are 11 ponds in 250m of the proposed development. The nearest pond is 15m away but scores poor for habitat suitability. Three ponds in 250m are confirmed to contain breeding great crested newts but all are over 100m from the proposed development which only impacts upon poor quality terrestrial habitat. Greenscape are satisfied that reasonable avoidance measures are sufficient to ensure the protection of great crested newts and I am supportive of that approach.

### Designated Sites

Prees Branch Canal SSSI is 900m from the site – Greenscape conclude that impacts on the SSSI can be avoided by following standard approaches to dust and fuel leak prevention on the site. Fenn's, Whixall, Bettisfield, Cadney and Wem Mosses SAC and Ramsar is located 3km north west of the site. I am satisfied that a single dwelling, at this distance, with an onsite septic tank is not likely to have any impact upon the European Designated Site. A formal Habitat Regulation Assessment and appropriate assessment is not required in this case.

6.4.3 Following consultation with the Ecology Officer and having read the submitted Ecological Appraisal prepared by Greenscape Environmental Ltd (May 2019). Officers are satisfied with the level of survey work carried out.

## **7.0 CONCLUSION**

7.1 Whilst the applicant has demonstrated that she is in local housing need, the siting and design of the dwelling is considered contrary to planning policies and deemed unacceptable. The proposed siting of the dwelling house will adversely affect the landscape and the rural character of the area. The proposed development would be exposed and visible from the passing highway and due to the open nature of the site, the dwelling will have a clear prominent position within the rural setting and is therefore not considered acceptable due to the visual impact and harm caused.

This application is contrary to planning policies CS5, CS6, CS17, MD02, MD07a and MD13 of the Shropshire Core Strategy and the SAMDev Plan, along with the aims of the National Planning Policy Framework (NPPF) published February 2019, and The Type and Affordability of housing SPD 2012 and is therefore recommended for Refusal

## **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:

NS/07/01097/REM Removal of Condition No. 5 attached to Planning Permission N/98/853/WX/239 at Toad Hall, Green Lane Farm, Abbey Green, Whixall  
CONAPP 24th July 2007

14/05349/FUL Erection of garage and formation of new access to include a change of use of land to domestic curtilage land GRANT 9th June 2015

NS/84/0647/FUL Proposed alterations and extensions to existing dwelling at Green Lane farm, Abbey green, Whixall GRANT 20th November 1984

PREAPP/18/00637 Proposed single storey extension PDDEV 11th January 2019

20/04102/FUL e Erection of a one local needs dwelling with a detached double garage (resubmission) PDE

NS/98/00976/FUL CONVERSION OF REDUNDANT FARM BUILDING TO DWELLINGHOUSE INCLUDING INSTALLATION OF SEPTIC TANK CONAPP 21st February 2000

PREAPP/18/00466 Erection of affordable dwelling PREUDV 4th October 2018

19/04923/FUL Erection of a one dwelling, for local needs, with detached double garage REFUSE 22nd January 2020

20/01723/FUL Erection of a one dwelling, for local needs, with a detached double garage REFUSE 12th June 2020

20/04102/FUL e Erection of a one local needs dwelling with a detached double garage (resubmission) PDE



## 11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
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Local Member Cllr Pauline Dee Cllr Chris Mellings
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Appendices None
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Committee and Date  
 Northern Planning Committee  
 8<sup>th</sup> December 2020

Item  
**6**  
 Public

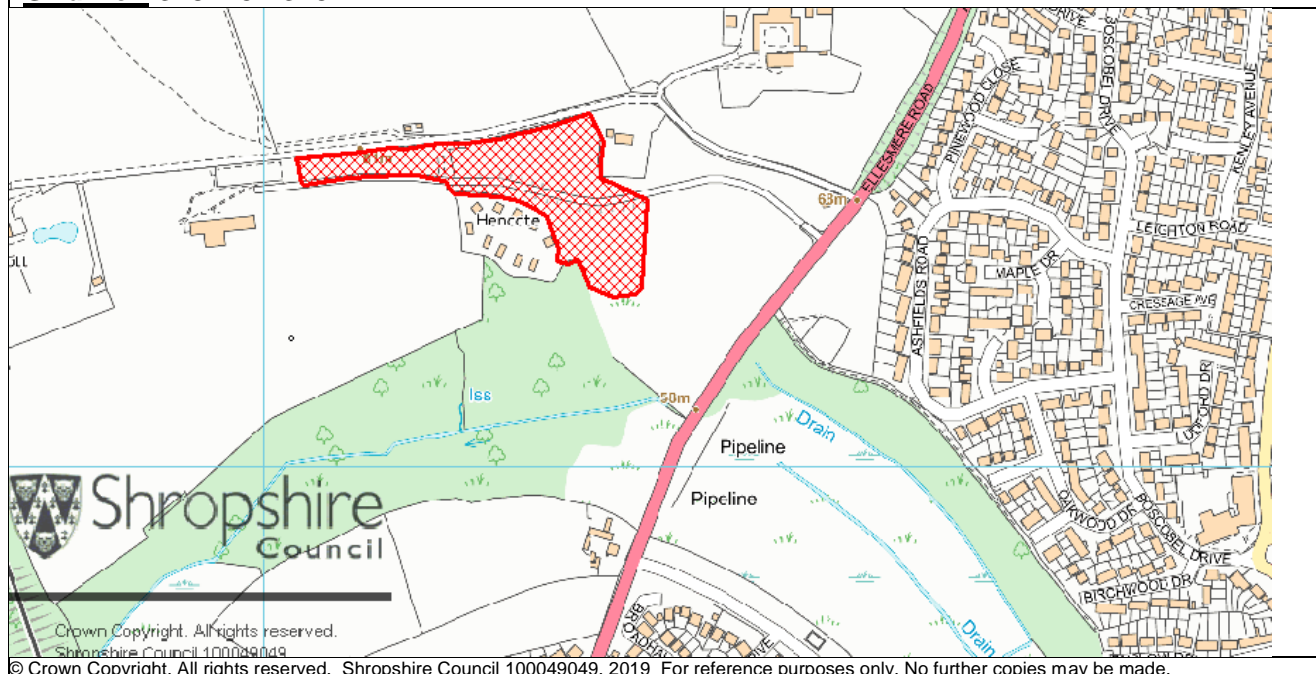
## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 19/05538/FUL	<b>Parish:</b> Shrewsbury Town Council
<b>Proposal:</b> Change of use of land for the erection of 26 Holiday Lodges and provision of parking areas and associated landscaping	
<b>Site Address:</b> Hencote Farm Cross Hill Shrewsbury Shropshire SY4 3AA	
<b>Applicant:</b> Mr A Stevens	
<b>Case Officer:</b> Jane Raymond	<b>email:</b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a>

**Grid Ref:** 348715 - 315214



**Recommendation: Grant Permission subject to the conditions set out in Appendix B.****REPORT****1.0 THE PROPOSAL**

- 1.1 This application relates to change of use of agricultural land to allow for the provision of 26 Holiday Lodges and associated parking areas. 10 lodges are identified on the plans as 'Couples Retreat' and are small units aimed at couples and 16 larger lodges are labelled as 'The Collection' and 'Family Luxury'.
- 1.2 The proposal comprises 3 separate areas of additional holiday lodge accommodation. A couples area of 10, 1 bed 2 person studio open plan lodges on 0.87 acre, a family area of 10, 2 bed 6 person lodges on 1 acre and a luxury lodge area of 6, 2 bed 4 person lodges on 0.65 acre. A total of 2.52 acres.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application site is Hencote winery and vineyard that includes a restaurant, visitor centre and 10 glamping pods. The agent has advised that the current glamping site has been shortlisted in the 'Camping, Glamping, Holiday Park of the Year' at the inaugural West Midlands Tourism Awards.
- 2.2 The Hencote site is situated approximately one mile north of Shrewsbury town centre and is accessed off a private access drive off the A528 Ellesmere Road.
- 2.3 It is a 60acre site; 18 acres are vineyard and winery and there are currently 10 glamping units on 1.3 acres of the site. The total area of existing and proposed glamping and lodges will be approximately 8.5% of the estate. 18 acres of the 60acre site is vineyard and together with the existing and proposed glamping and holiday lodge accommodation will leave over 37 acres of natural habitat.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Town Council object to the application which has also been requested by the Local Member to be referred to the relevant Planning Committee within 21 days of electronic notification of the application. The Principal Planning Officer in consultation with the committee chairman and vice chairman agree that the issues raised are material considerations which warrant Committee consideration.

**4.0 Community Representations****4.1 - Consultee Comments**

- 4.1.1 **WSP on behalf of SC Drainage:** The review of the drainage strategy in the FRA is acceptable in principle. The drainage details, plan and calculations should be submitted for approval. Recommends a drainage condition and informative advice.
- 4.1.2 **WSP on behalf of SC Rights of way:** No comments to make on the application

- 4.1.3 **SC Trees:** No protected or important trees are affected by this proposal and I raise no objection on the grounds of trees. The submitted Ecology report makes recommendations for new sensitive landscaping works to enhance the site and prevent negative impacts upon the adjacent Old River Bed.

Therefore, a landscape scheme is required to include all proposed and retained trees, hedges and shrubs; ground preparation, planting specifications and ongoing maintenance. Planting schedules shall include details of species, plant sizes and proposed numbers/densities, recommendations for native hedge and tree planting are included in the ecology report.

- 4.1.4 **SC Ecology:** Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

I have the read the submitted No Significant Effects Report Hencott Pool (Midlands Meres and Mosses Ramsar Phase 2 (Gerald Longley, August 2020), the Preliminary Ecological Appraisal (Gerald Longley, August 2020) and the Outline Wildlife Sensitive Lighting Plan (Gerald Longley, August 2020).

#### Habitats Regulations Assessment

This application has been considered under the Habitats Regulations Assessment process in order to satisfy the Local Authority duty to adhere to The Conservation of Habitats and Species Regulations 2017 (known as the Habitats Regulations).

A Habitats Regulations Assessment matrix is included at the end of this response. The HRA matrix must be included in the Planning Officer's report for the application and must be discussed and minuted at any committee at which the planning application is presented.

Provided that the works are carried out as proposed, the proposed development will not adversely affect the integrity of Hencott Pool Ramsar phase 2.

#### Landscaping and lighting

I am happy with the level of survey work, the proposed landscaping plan and the lighting plan. Works should be carried out in accordance with the landscaping and lighting plans.

'A Habitat Management Plan for the wider Hencote estate was produced in 2019 (Arbtech, 2019). This plan included management prescriptions for some areas within the site surveyed for this report.'

- 4.1.5 **Shropshire Fire and Rescue:** Refers to advice and information available within Shropshire Fire and Rescue Service's 'Fire Safety Guidance for Commercial and Domestic Planning Applications.
- 4.1.6 **SC Highways:** No Objection – subject to the development hereby approved being constructed in accordance with drawing number 1937-PL-01. The application plans do not implicitly show the access to the development within

the red line boundary, but the application form states that no new vehicular or pedestrian access is proposed. Therefore, it is assumed that the access that was built to serve the Hencote vineyard will serve this development. This is acceptable from a highways perspective. Any variation from this access will need further consideration.

The generated traffic is acceptable as is the parking provision for the development.

## 4.2 - Public Comments

### 4.2.1 **Shrewsbury Town Council:** Objects to this planning application on the following grounds:

- Members have expressed concerns that these proposals to construct additional holiday accommodation represents an over-development of the site, especially in relation to the increasing number of development plans for this location;
- Members feel that the introduction of these additional units will spoil the view of the countryside at this location;
- Given the topography of the land at this site, Members expressed concerns that these additional units will have a detrimental visual impact in an area where it is widely acknowledged to be a buffer zone where town meets countryside.

### 4.2.2 **Local Member:** I have looked at these plans in detail and spoken to the client's agent. As the application currently stands, I cannot support it. This is because:

1. It is a countryside site, so any extra activity should be limited and subservient to the main agricultural business that takes place on the site. The current 10 glamping units and restaurant could be considered subservient at a stretch, but the 26 units cannot and very much change the nature and use of the site.

2. Noise. Most campsites/glamping sites in Shropshire of similar or larger scale are not close to residential developments. This is (Herongate, plus the 8 homes at Winney Hill View are nearby) so the impact of noise, especially late evening, should be taken into account. The hillside location will amplify this. All in all, the scale of the extra development will have an unacceptable noise impact on nearby residents.

3. Highways. 26 extra units will generate extra traffic on an already over-congested Ellesmere Road, and cause too much turning traffic on a junction that does not have good site lines and experiences speeding traffic. The application also notes that there is not a pavement on the side road, so journeys into town (which the application says is an economic benefit) will be by car.

4. Visual impact. The application as it stands will be visible from Winney Hill View, Herongate and Ellesmere Road. The application says that there will be landscaping/shading, but these were promised for the previous glamping application, and these buildings are still very much visible from Winney Hill View/Herongate/Ellesmere View.

#### 4.2.3 **Shrewsbury Civic Society:** Object summarised as follows:

- Is pleased to see that the location of the first phase of the holiday accommodation is generally concealed from public view.
- Concerned about the expansion which will result in the lodges being more visible, especially at night.
- If permitted the foundations and infrastructure should be minimal, to help prevent urbanising the site.
- An updated ecological assessment is required.
- Has already grown too much and no longer represents the original permission granted for a small, limited times enterprise accompanying the vineyard.

#### 4.2.4 10 letters of objection summarised as follows:

- Despite enormous local opposition, the applicant obtained planning permission for a vineyard and winery on the basis that the site's primary business purpose would be growing vines and making wine - with a visitor centre with strict limits on numbers. Instead, this enterprise is rapidly turning into an ever expanding and intrusive holiday park, conference and entertainment venue.
- By stealth, and repeated applications, the trajectory of this historic farm is towards becoming a leisure/holiday complex with a restaurant, glamping pods and this latest expansion bid. The vineyard appears to play a secondary role.
- The winery and restaurant building itself is a blot on the landscape appearing as an industrial building from the surrounding countryside and from within Shrewsbury and the new lodges will have a further negative impact on the landscape and will be visually intrusive.
- This application would nearly quadruple the number of accommodation units at Hencote, a controversial hilltop location in a sensitive site of enormous landscape amenity value, close to an SSSI and conservation area.
- The scale of the proposed development is not suitable for the site which is in danger of becoming over developed creating a large-scale development unsuitable for its prominent location.
- From a winery to glamping and then to permanent pods might be the stepping-stones to even further development.
- The units would be easily visible from houses at Winney Hill View and along Ellesmere Road to the south but also from much of Herongate - because of

- their location and their scale.
- The proposed lodges are too numerous and too large, and the visual impact would not be far off a hilltop housing estate and will be visible for miles.
  - No LVIA has been submitted to show how the lodges could appear in the landscape or setting out any mitigation proposals.
  - The proposed facilities will detrimentally affect the local area behind the Hencote Estate, reducing the character of the area and disrupting tranquillity for wildlife.
  - The proposal would be contrary to CS17 and 11 of the NPPF.
  - The hedgerow along Hencote Lane is being allowed to grow to full height, shutting off the view over the town completely from ramblers and walkers.
  - The lodges will increase traffic on the Ellesmere Road particularly over the summer months and a Transport Statement has not been submitted.
  - It is impossible to access the site by public transport unless you are prepared to walk a long way along the dangerously narrow pavement on Ellesmere Road.
  - The proposed development will have a negative impact on the amenity of local residents. There is already a lot a noise on certain occasions and the lodges will increase noise nuisance. People staying in the lodges can be noisy late into the night.
  - The over development of a winery and restaurant into a leisure facility will have a permanent negative effect on the quality of the lives of the residents of Winney Hill View due to noise.
  - In the summer months when we are enjoying the evening in the garden, or have windows open at night, the guests at the glamping lodges have become noisy and disorderly whilst we assume they are having private parties.
  - If the number of glamping units are nearly quadrupling, then the concern is the noise levels will do the same. Hencote guests come and go in just a weekend, and sadly some will not be concerned about their behaviour (including shouting and swearing) and how it may affect their neighbours.
  - Will result in loss of privacy due to lodges built on the hillside overlooking residents in Winney Hill.
  - Concerned that the loss of a view will depreciate property values.

## 5.0 THE MAIN ISSUES



Principle of development  
 Visual impact and landscaping  
 Ecological implications  
 Residential amenity  
 Access/Highway implications

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 National planning policy set out within the NPPF supports sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings. The NPPF also supports the development and diversification of agricultural and other land-based rural businesses and ;promotes the creation of sustainable rural tourism including the provision of tourist and visitor facilities in appropriate locations.

6.1.2 The site is outside the development boundary for Shrewsbury and is therefore considered to be in the countryside where the following adopted local plan policies are the most relevant in determining the principle of the proposed development in this location:

#### Core Strategy:

CS5 - Countryside and Green Belt

CS13 - Economic Development, Enterprise and Employment)

CS16 - Tourism, Culture and Leisure

#### SAMDev Policy:

MD11 - Tourism Facilities and Visitor Accommodation

6.1.3 Policy CS5 supports development proposals on appropriate sites which maintain and enhance countryside vitality and character where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to (among other proposals ) sustainable rural tourism and leisure and recreation proposals which require a countryside location in accordance with CS16 and CS17.

6.1.4 Policy CS16 promotes the delivery of high quality, sustainable tourism, and cultural and leisure development and supports new and extended tourism development and schemes aimed at diversifying the rural economy for tourism provided they are appropriate in terms of their location, scale and nature and preserve existing natural features and where possible do not harm Shropshire's tranquil nature. CS16 also supports development of high-quality visitor accommodation in accessible locations served by a range of services and facilities, which enhance the role of Shropshire as a tourist destination to stay. Proposals are required to be of an appropriate scale and character for their surroundings and be situated close to or within settlements, or an established and viable tourism enterprise.

6.1.5 SAMDev Policy MD11(Tourism Facilities and Visitor Accommodation) also permits proposals for tourism, leisure and recreation that require a countryside location where the proposal complements the character and qualities of the site's immediate

surroundings.

- 6.1.6 Core Strategy policy CS13 (Economic Development, Enterprise and Employment) seeks to diversify the Shropshire economy, support enterprise, and the delivery of sustainable economic growth and prosperous communities. It states that emphasis will be placed on areas such as supporting the development and growth of Shropshire's key business sectors, which includes tourism.
- 6.1.7 The 60acre site consists of approximately 37 acres of natural habitat and 18 acres of vineyard (which is agricultural use). The winery, visitor centre and restaurant were approved in March 2015 and the siting of the 10 existing glamping pods was approved in January 2018. Hencote is now an established rural business close to the urban area north of Shrewsbury and was approved as a rural diversification proposal ancillary to the vineyard. The proposed and existing holiday units together with the restaurant and visitor centre will occupy approximately 4 acres of the 60 acre site and it is considered that the scale of the proposed development would not represent over development of the site or an unacceptable intensification of the overall use of the site.
- 6.1.8 The expansion of the holiday accommodation at this existing successful enterprise will bring economic benefits to the town of Shrewsbury and the wider area, bringing visitors to both the town and the county that will support other local businesses.
- 6.1.8 Although it is acknowledged that there was some public opposition to the development of the visitor centre, restaurant and glamping site the business is now well established and has proved to be successful. The existing glamping pods are popular and well used throughout the year and there is a demand for more and alternative visitor accommodation. The provision of additional lodges at an existing site and in reasonably close proximity to Shrewsbury town centre is supported by both CS16 and MD11 in addition to CS5, and will help to enhance the role of Shrewsbury and Shropshire as a tourist destination to stay.
- 6.1.9 There are significant benefits to the proposal that outweigh any potential harm (which will be considered in the following paragraphs), including rural diversification, the provision of good quality tourist and visitor accommodation in an accessible and sustainable location, environmental enhancements, employment opportunities and the related economic benefits to the wider area. All of these benefits accord with the aims and provisions of the policies identified in 6.1.1 above, paragraph 83 of the NPPF and the principles of sustainable development.

## 6.2 **Visual impact and landscaping**

- 6.2.1 The NPPF at paragraph 170 advises that:

*'Planning policies and decisions should contribute to and enhance the natural and local environment by:*

*a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).'*

The site where the lodges will be located is not nationally or locally designated and

is not identified within the development plan as being of special quality or landscape value.

- 6.2.2 The 'Old River Bed' part of which is a Site of Special Scientific Interest (SSSI) is situated to the south east of the site and 'Hencote Pool' to the north is also designated as a SSSI and is part of the Midland Meres and Mosses Ramsar (Wetlands of International Importance). It is considered that the proposal would have no adverse impact on the character and appearance of these designated sites or their setting within the wider landscape and ecological impacts will be considered in paragraphs 6.3 below.
- 6.2.2 Policies CS6 (Sustainable Design and Development principles), CS17 (Environmental Networks) and MD12 (The Natural Environment) aim to ensure that new development protects, conserves and enhances the natural, built and historic environment and does not have a significant adverse impact on Shropshire's environmental assets. MD11 requires proposals to be well screened and sited to mitigate the impact on the visual quality of the area through the use of natural on-site features, site layout and design, and landscaping and planting schemes where appropriate.
- 6.2.3 The local member has commented that the proposed lodges will be visible from Winney Hill View (a new development to the south), and from Herongate and Ellesmere Road to the east of the site, and some residents have commented that the proposal will result in the loss of a view, however, there is no right to a view. The Town Council are concerned that the additional units *'will have a detrimental visual impact in an area where it is widely acknowledged to be a buffer zone where town meets countryside'*.
- 6.2.4 A landscape visual impact assessment (LVIA) and a landscaping scheme have been submitted. The LVIA provides a series of photographs taken from a variety of locations and like the existing glamping accommodation it is considered that the proposed lodges will be barely visible in views from the majority of vantage points to the south and east of the site. The site is not in designated Greenbelt or otherwise protected landscape such as AONB or conservation area and it is considered that the area where the lodges will be located has no particular quality or landscape value that might differentiate it from any other rural or countryside location.
- 6.2.5 The proposed lodges and decking areas will be constructed of timber built off timber posts driven into the ground and are 'hobbit hut' in style and appearance. The proposed scale, design, material and colour of the lodges will help them blend into the natural landscape unlike static caravans which would not be acceptable. Another benefit of the proposed lodges and their method of installation is that they could easily be removed and the ground reinstated if no longer required.
- 6.2.6 The proposal includes a landscaping scheme that in addition to tree and shrub planting around the proposed lodges indicates two large areas of tree planting that will be planted with native species as indicated in 7.4 of the Ecological report, one area is referred to as 'copse'. This tree planting is in addition to the recent tree and shrub planting as part of the landscaping associated with the earlier development of the site. The proposed 'copse' will screen the development from the nearest

property (The White House) situated immediately to the east of the area proposed for the 'family luxury' lodges.

- 6.2.6 The submitted documents indicate that careful consideration has been given to the location, landscaping and orientation of the existing and proposed lodges and that the only units with the potential for 'glimpsing visibility' will be those located in the 'Couples retreat' area. These are proposed to be set in the existing valley between the existing glamping site and the rear of Winney Hill. These units will be set below the crest of Winney Hill and in addition to the proposed landscaping the views of the proposed lodges from Ellesmere Road and the properties to the east will be minimised.
- 6.2.7 The location where the existing and proposed lodges will be most visible is from Hencote Lane to the east and north as the proposed family area and luxury area will be sited adjacent to the northern boundary of the site. However, this area is adjacent to the existing glamping area and the winery and restaurant building and this close up view of the lodges will be screened by a boundary hedge once matured but in the short term by the proposed woven willow fencing.
- 6.2.8 It is considered that having regard to the scale, design, appearance and siting of the proposed lodges and the existing and proposed landscaping of the site the development would have no adverse impact on the character and appearance of the locality and the wider landscape. It is considered that the rural character of the area will not be significantly affected, and the site will be visually and ecologically enhanced by the planting proposed.

### 6.3 **Ecological implications**

- 6.3.1 The site is within 600metres of Hencott Pool which is part of the Midland Meres and Mosses Ramsar phase 2. As the proposal has the potential to adversely affect a designated site of international importance for nature conservation, the likelihood and significance of these potential effects must be investigated and a Habitats Regulations Assessment (HRA) undertaken.
- 6.3.2 More detailed information was sought from the applicant in order to consider whether the project would have any significant effects on Hencott Pool or have an adverse effect on the integrity of this site. The submitted 'No Significant Effects Report Hencott Pool (Midlands Meres and Mosses Ramsar Phase 2 (Gerald Longley, August 2020)' has been reviewed by the Councils Ecologist and a HRA is included in Appendix A. The Councils Ecologist has undertaken the required 'Appropriate Assessment' which concludes that the proposed works will not adversely affect the integrity of Hencott Pool Ramsar phase 2, either alone or in-combination with other plans or projects, providing the development is carried out according to the details submitted. The Councils Ecologist has also confirmed that there is no legal barrier under the Habitats Regulations Assessment process to planning permission being granted in this case.
- 6.3.3 In addition to the 'No significant effects report' a 'Preliminary Ecological Appraisal' and an 'Outline Wildlife Sensitive Lighting Plan' has been submitted. These have been reviewed by the Councils Ecologist who has confirmed that the level of survey work is satisfactory and is happy with the proposed landscaping and lighting plan.

6.3.4 The existing and proposed Lodges will occupy approximately 8% of the 60 acre estate leaving 18 acres in agricultural use and 37 acres of natural habitat which is over 60% of the site. It is considered that subject to compliance with the recommended conditions and also the conditions imposed on earlier approvals for management of the wider area the proposed development would have no adverse impact on protected wildlife or habitats and would ensure the protection of wildlife and provide ecological enhancements as required by MD12 and CS17.

#### 6.4 Residential amenity

6.4.1 Policy CS6 and MD2 seek to ensure that development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that development *'creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users'*.

6.4.2 The majority of concerns with regards to residential amenity relate to noise and disturbance and that future occupiers of the holiday lodges would not have the same regard for their neighbours as occupiers of residential properties. The proposal includes 10 lodges located in an area described as 'Couples Retreat' and are small 1 bedroom units aimed at couples. These lodges would be located over 250 metres away from the nearest residential properties situated east of Ellesmere Road and over 350 metres away from the new houses at Winney Hill to the south which is where the majority of the concerns have been received.

6.4.3 16 larger 2 bedroom lodges that can accommodate 4 are labelled as 'The Collection 1 - 6' and 'Family Luxury 1 - 10', and are located further away from the properties to the east and south east but closer to 'The White House' a detached house to the east. A landscaped area planted with trees indicated to be 'copse' on the plan will screen both the view and the activity associated with the development from this property.

6.4.4 Whilst it is considered that holiday makers might sometimes make a little more noise than homeowners using their gardens in summer months (both during the daytime and evenings) it is considered that the provision of 26 lodges aimed at couples and families and groups of four would not make any significant discernible difference to noise and disturbance in the locality having regard to the existing use of the site and the surrounding land uses. These include the busy Ellesmere Road, the children's play area opposite the site entrance, the existing restaurant and outdoor seating area and the sites location adjacent to the urban built up area.

6.4.5 The agent has responded to the concern regarding noise and has advised that *'occupants of the units are requested to respect their neighbours both in adjacent units and in the broader setting as part of the induction to the site and its facilities and the client folder reiterates this, some clients may become noisy at times and depending on the prevailing wind direction conversation may be heard some distance away, if complaints are made, then the management will intervene and instruct the clients to respect their neighbours'*.

- 6.4.6 It is considered that the proposed use is not an inherently inappropriate and unneighbourly form of development and the proposed lodges are intended to offer quality accommodation at a tranquil rural retreat. Planning decisions must be based on an assumption that occupiers of either residential dwellings or holiday accommodation will behave in an appropriate and considerate manner having regard to their surroundings and neighbours, whether these are visitors or residents. It is considered that the proposal would not result in significant or unacceptable levels of noise and disturbance for nearby residents.
- 6.4.7 Due to the distance from the dwellings to the south and east the proposal could not be considered to result in a loss of privacy and although the view from some of these residential properties might include distant glimpses of the proposed lodges there is no right to a view. Similarly, the impact on house values is not a material consideration and any concerns about light pollution from the existing development are covered by the earlier permissions and conditions attached to those decisions.
- 6.4.8 The Councils Ecologist has confirmed that the lighting proposal for this development is satisfactory and would have no adverse impact for wildlife. It is considered that the lighting proposal would also have no adverse impact on residential or local amenity.
- 6.5 **Access/Highway implications**
- 6.5.1 Concern has been raised regarding additional traffic having an adverse highway impact. The NPPF advises that '*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*'.
- 6.5.2 CS6 requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car-based travel to be reduced but at the same time include appropriate car parking provision and appropriate vehicular access. Policy MD2 requires development to incorporate adequate on-site car parking to ensure that cars do not overspill onto surrounding roads and therefore negatively impact on the local road network.
- 6.5.3 Adequate parking is provided for each lodge and once visitors have arrived by car there are opportunities for visitors to walk, cycle or use public transport to visit the town centre or other towns, or to enjoy the surrounding countryside. Whilst it is anticipated that the majority of visitors will arrive by private car there is also the opportunity for some visitors to arrive in Shrewsbury by train or bus and to get a taxi to the site. The location of the site is considered to be a benefit to the proposal compared to many holiday parks that are situated in rural countryside locations remote from any town or village or any public transport.
- 6.5.4 Access to the proposed lodges will be via the new access that was built to serve the Hencote vineyard and restaurant and is considered to be more than adequate to serve the additional lodges. Highways have reviewed the application and have not requested a detailed transport or traffic assessment and consider that the traffic generated by the proposal and the parking provision is acceptable. It is considered that the proposal would not generate significant amounts of traffic or impede the

free flow of traffic on this part of Ellesmere Road or exacerbate the existing congestion experienced closer to the town centre at peak times.

## 6.6 **Drainage**

6.6.1 A Flood Risk Assessment (FRA) has been submitted as the site is greater than one hectare but it is not at risk of flooding. The FRA includes a drainage strategy that has been reviewed by the Drainage team who have confirmed that the strategy is acceptable and recommends a condition requiring submission of the detail. The recommended drainage condition is included in appendix B.

## 7.0 **CONCLUSION**

7.1 It is considered that the proposed development will provide high quality tourist and visitor accommodation in an accessible and sustainable location that will provide environmental enhancements, employment opportunities and economic benefits to the wider area. A safe means of access is provided, and the proposal will not generate significant amounts of traffic or impact on highway safety. Subject to compliance with the recommended conditions (and the conditions imposed on earlier approvals for management of the wider area) the proposed development would have no adverse impact on protected wildlife or habitats and would ensure the protection of wildlife and provide ecological enhancements. It is considered that due to the location, landscaping and orientation of the proposed lodges the development would not significantly change views of the site or adversely impact on the character and appearance of the area and would not result in significant harm to the living conditions of occupiers of dwellings nearby.

7.2 The proposal is therefore considered to accord with the aims and provisions of the NPPF and local plan policies CS5, CS6, CS13, CS16, CS17 MD2, MD11 and MD12.

## 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 three months after the grounds to make the claim first arose.

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and Saved Policies: CS5, CS6, CS13, CS16, CS17 MD2, MD11 and MD12.

### RELEVANT PLANNING HISTORY:

15/03349/FUL Erection of a winery, visitor centre (to include a restaurant and event hall) and maintenance building; formation of courtyard, service yard, visitors car parking; landscaping to include boundary fencing and entrance gates; associated facilities GRANT 24th March 2016

17/04363/FUL Creation of a concierge 10 unit glamping site for tourism and leisure operation (using previously approved vehicular access); formation of car parking area GRANT 19th January 2018



19/04524/VAR Removal of Condition No. 8 attached to Planning Permission 17/04363/FUL dated 19 January 2018 (amended by application for variation of condition 18/04428/VAR) to allow the safari units to be occupied as holiday accommodation all year round GRANT 22nd November 2019

## 11. Additional Information

### List of Background Papers

19/05538/FUL - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q2TRNBTDJWC00>

Cabinet Member (Portfolio Holder): Councillor Gwilym Butler

Local Member: Cllr Alex Phillips

### Appendices

APPENDIX A: Habitats Regulations Assessment (HRA) Screening Matrix

APPENDIX B: Conditions

## APPENDIX A: Habitats Regulations Assessment (HRA) Screening Matrix

### 1.0 Introduction

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

This is a record of the Habitats Regulations Assessment (HRA) of the project at Hencote Farm Cross Hill Shrewsbury Shropshire SY4 3AA (19/05538/FUL), undertaken by Shropshire Council as the Local Planning Authority. This HRA is required by Regulation 61 of the Conservation of Habitats and Species Regulations 2017, in accordance with the EC Habitats Directive (Council Directive 92/43/EEC) before the council, as the 'competent authority' under the Regulations, can grant planning permission for the project. In accordance with Government policy, the assessment is also made in relation to sites listed under the 1971 Ramsar convention.

Date of completion for the HRA screening matrix:

9th November 2020

HRA screening matrix completed by:

Sophie Milburn  
Assistant Biodiversity Officer  
[sophie.milburn@shropshire.gov.uk](mailto:sophie.milburn@shropshire.gov.uk)  
Tel.: 01743 254765

### 2.0 HRA Stage 1 – Screening

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

## 2.1 Summary Table 1: Details of project

Name of plan or project	19/05538/FUL Hencote Farm Cross Hill Shrewsbury Shropshire SY4 3AA
Name and description of Natura 2000 site	<p>Most of Hencott Pool is swamp carr on very wet peat dominated by alder <i>Alnus glutinosa</i> and common sallow <i>Salix cinerea</i> with frequent crack willow <i>Salix fragilis</i>. Although there are considerable areas of bare peat beneath the trees, there is a rich flora of fen plants. The site is notable for the size of its population of elongated sedge <i>Carex elongata</i>.</p> <p>Other uncommon species include purple smallreed <i>Calamagrostis canescens</i>, cyperus sedge <i>Carex pseudocyperus</i>, cowbane <i>Cicuta virosa</i>, great spearwort <i>Ranunculus lingua</i> and fine-leaved water dropwort <i>Oenanthe aquatica</i>. There are locally extensive moss carpets of <i>Calliergon cordifolium</i>, <i>C. cuspidatum</i> and <i>Sphagnum squarrosum</i>.</p> <p>Hencott Pool is included in the Midland Meres and Mosses Ramsar phase 2 for its carr habitat and the species <i>Carex elongata</i> and <i>Cicuta virosa</i>.</p>
Description of the plan or project	<p>Erection of 26 Holiday Lodges; parking areas to include change of use of land</p> <p>The following potential effect pathways have been identified:</p> <ul style="list-style-type: none"> <li>- Air pollution</li> <li>- Hydrological impacts</li> <li>- Recreational</li> <li>- Introduction of invasive species</li> </ul>
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	<p>20/00385/OUT - A hybrid (full and outline) application comprising: Outline application, to include access, for employment development (up to 10,357sqm (111,482sqf), associated landscaping, infrastructure works, car parking, servicing and vehicular, pedestrian circulation; full application (Section 73A, retrospective) relates to associated infrastructure works including electricity sub station and estate roads forming means of access to each plot (amended description)</p> <p>20/00362/SCR - Environmental Impact Assessment (EIA) Screening Opinion for a hybrid (full and outline) planning application comprising: outline application for employment development comprising B1 (B), (C) / B2 / B8 use class with ancillary B1(A) office space and/or sui generis employment uses (up to 10,357m<sup>2</sup> (111,482ft<sup>2</sup>)(GEA)), associated landscaping, infrastructure works, car parking, servicing and vehicular, pedestrian circulation, and full application (retrospective) for associated infrastructure works including electricity substation and estate roads</p>

	<p>forming means of access to each plot</p> <p>20/02631/FUL - Mixed commercial development comprising industrial building (B1c, B8) with trade counter uses; 80-bed hotel; restaurant and bar; coffee shop with drive-through facility; associated access, parking, drainage and landscaping scheme to include diversion of public right of way</p> <p>20/03355/OUT - Outline application (access for consideration) for the residential development of up to 28 dwellings; to include some demolition and some tree removal</p>
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## 2.2 Initial screening for likelihood of significant effects

Potential effect pathways have been identified and Hencott Pool has been screened against these.

**Table 2 – Initial screening for likelihood of significant effects**

European designated site	Distance from project site	Site vulnerabilities	Potential effect pathways
Hencott Pool, part of Midland Meres and Mosses Ramsar phase 2	635m	<ul style="list-style-type: none"> <li>- Eutrophication, mainly from surrounding agricultural run-off.</li> <li>- Lowering of the water table from surrounding activities.</li> <li>- Invasive species, in particular Canada geese that graze, trample and enrich the vegetation.</li> </ul>	<ul style="list-style-type: none"> <li>- Air pollution</li> <li>- Hydrological impacts</li> <li>- Recreational</li> <li>- Introduction of invasive species</li> </ul>

## 2.3 Summary of Stage 1 screening

There are potential pathways for likely significant effects between the project and Hencott Pool Ramsar phase 2.

Shropshire Council has sought more detailed information from the applicant in order to consider if the project will have any significant effects on Hencott Pool Ramsar phase 2 or have an adverse effect on the integrity of this site.

## 3.0 HRA Stage 2 Appropriate Assessment

This appropriate assessment is based on the No Significant Effects Report Hencott Pool (Midlands Meres and Mosses Ramsar Phase 2 (Gerald Longley, August 2020).

**Table 3 – Further assessment of potential impacts**

General effect pathway	Potential impact	Consideration of potential impacts
Air pollution	Dust from construction	Lodges will be constructed on decking secured by posts driven into the ground, therefore no dust will be created. Trenching for services will involve small scale excavations undertaken over a short period of time and will not create significant dust.

	Emissions from increased vehicle movements during construction and from visitors to the site	Hencott Pool is over 200m from the site and from the A or B roads which construction vehicles and visitors travelling to and from the site would use. No likely significant effects as a result of increased traffic are anticipated.
	Increased nitrogen oxides, sulphur dioxide particulate matter and other pollutants from residential combustion processes	Hot tubs outside each lodge will be wood fired. The use of well-seasoned and dried wood along with regular maintenance will minimise particulate emissions. As Hencott Pool is over 600m from the project site, no likely significant effects are anticipated.
Hydrological impacts	Pollution from waste water/sewage	Waste water/sewage from the new lodges is to be treated in an existing on-site package treatment plant with an outfall to the south, the opposite direction from Hencott Pool. The development site slopes down to south, away from Hencott Pool.
	Changes to groundwater through abstraction	There will be no abstraction. Potable water for domestic use within the lodges will be provided via an existing water main adjacent to the existing service road.
	Changes to surface water quantity/quality	Hencott Pool is at the same level (80m) as the northern boundary of the site. The land between slopes up slightly from the development site and then down slightly. The site slopes down to the south (away from Hencott Pool). All surface and waste water drainage, whether designed or accidental, from the site will be to the south and will not impact Hencott Pool.
Recreational	Increased hunting pressure from domestic animals	Pets will not be permitted in the new glamping villages.
	Increased deposition of dog faeces through new or increased numbers of visitors	Pets will not be permitted in the new glamping villages.
	Damage from increased bikes and other vehicles	There is no legal access for vehicles and bikes to Hencott Pool. Visitors would need to carry a bike over two kissing gates to access the site. A site visit by Gerald Longley on 5th August 2020 did not observe any attempts at illegal off-road biking.
	New or increasing visitor numbers causing interference with grazing and other management designed to maintain the features of the international site	A site visit by Gerald Longley on 5th August 2020 did not observe any signs of management at Hencott Pool. This echoes reports in previous surveys of the site being unmanaged (or nearly so) for many years. Any visitors to Hencott Pool will therefore not interfere with management.
	Disturbance caused by noise during construction or use/occupation	As Hencott Pool is over 600m from the project site, noise is not considered an issue.
	Increased trampling and physical damage of international site by additional visitors	There is no formal public access to Hencott Pool. A public footpath leads from Hencote Lane (to the northwest of the site) across fields and around the east edge of Hencott Pool. Although marked on some OS maps as The Marches Way Long Distance Footpath, the path is not signed as such on the ground and does not form part of The Shropshire Way or any other local circular route promoted on Shropshire's Great Outdoors website. A small path runs around part of the north edge of Hencott Pool running through the woodland and then out into a field to the north but no other access for people. There is potential for a small increase in people walking the public footpath and possibly passing through the north side of the woodland around Hencott Pool on the small

		<p>informal path. This path does not pass through areas or carr or close to areas where <i>Carex elongate</i> has been recorded so would not cause damage to the habitat or plants Hencott Pool is notified for.</p> <p>Leaving the path would involve walking through vegetation and/or on soft ground, particularly in winter or after heavy rain. In summer the shady, damp woodland is home to many biting insects and thorough exploration of the site is considered unlikely to appeal to most visitors to Hencote Farm.</p> <p>Hencote Farm have no plans to promote Hencott Pool to visitors as a destination to visit.</p>
Introduction of invasive species	Introduction or spreading of invasive species or diseases, e.g. through vehicle movement or by boats, people or dogs, or introduction of fish or non-native plants	<p>There is no access for vehicles or boats from the site to Hencott Pool. There is no open standing water so the site is unsuitable for fishing.</p> <p>The likelihood of introducing fish, disease or non-native plants by small numbers of visitors to Hencote Farm who may walk the footpath are considered insignificant.</p>

#### 4.0 Summary of HRA Screening Appropriate Assessment

The proposed development will not result in any significant effects on Hencott Pool and no adverse effects on site integrity are anticipated, alone or in combination with other plans and projects.

#### 5.0 Final conclusions

Following Stage 1 screening, Shropshire Council concluded that possible effect pathways exist between Hencott Pool Ramsar phase 2 and the project site. Shropshire Council has carried out an Appropriate Assessment of the project, considering further information. The Appropriate Assessment concludes that the proposed works under planning application 19/05538/FUL will not adversely affect the integrity of Hencott Pool Ramsar phase 2, either alone or in-combination with other plans or projects, providing the development is carried out according to the details submitted.

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

#### 6.0 Guidance on completing the HRA Screening Matrix

##### The Habitats Regulations Assessment process

Essentially, there are two ‘tests’ incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the ‘significance test’ and the other known as the ‘integrity test’. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the ‘integrity test’ need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

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

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

- (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of that site,

must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.

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

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

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

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

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

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

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

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

#### **APPENDIX B: 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 DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

3. No above ground works shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied.

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

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

4. Development shall occur strictly in accordance with the recommendations set out in section 5 and section 7.3 of the Ecological Appraisal dated 05 August 2020.

Reason: To ensure the protection of wildlife and to provide ecological enhancements.

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

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs and to provide visual and ecological enhancement of the site.

6. No more than 26 holiday lodges shall be sited on the approved site area and the layout of the site and the scale, design and appearance of the holiday lodges shall be as indicated on the submitted and approved plans.

Reason: In the interests of visual amenity.

7. The holiday lodges hereby permitted shall only be used to provide holiday accommodation and shall not be occupied as a person's sole, or main place of residence, and the site owner/operator shall maintain an up-to-date register of the names of all owners/occupiers of the holiday let on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.

Reason: To ensure that the approved accommodation is not used for unauthorised permanent residential occupation (C3 use) which would be contrary to National and Local Plan Policy.

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<u>Committee and Date</u>
Northern Planning Committee
8 <sup>th</sup> December 2020

<u>Item</u>
<b>7</b>
Public

## Development Management Report

Responsible Officer: Tim Rogers

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

### SCHEDULE OF APPEALS AS AT COMMITTEE 8<sup>th</sup> December 2020

#### Appeals Determined

<b>LPA reference</b>	18/02843/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Ms Sophie Dillon
<b>Proposal</b>	Change of use from dwelling house providing bed and breakfast accommodation to dwelling house providing bed and breakfast accommodation, A3 (Restaurant) Use Class, and A4 (Drinking Establishment) Use Class, including alterations to the access on to the public highway.
<b>Location</b>	Barn Adjacent To The Hayes Racecourse Road Oswestry
<b>Date of appeal</b>	28.05.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	05.11.2020
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Dismissed</b>

<b>LPA reference</b>	19/04571/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Liam McCullough
<b>Proposal</b>	Outline application (All Matters Reserved) for the erection of 4no detached dwellings
<b>Location</b>	Land Adjoining Crawforton Shrewsbury Road Hadnall
<b>Date of appeal</b>	05.08.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	11.11.2020
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Dismissed</b>

<b>LPA reference</b>	20/00693/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Mr Paul Majski
<b>Proposal</b>	Erection of 1 no replacement dwelling and double garage following demolition of existing
<b>Location</b>	Donbard House 40 Belle Vue Gardens Shrewsbury
<b>Date of appeal</b>	31.07.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	28.10.20
<b>Date of appeal decision</b>	24.11.20
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	19/04715/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Committee or Del. Decision</b>	Committee Decision
<b>Appellant</b>	Mr Khan
<b>Proposal</b>	Change of use from (A1) shop to (A5) hot food takeaway restaurant; associated alterations and the provision of 2No. off-street car-parking spaces
<b>Location</b>	41 Wood Street Shrewsbury
<b>Date of appeal</b>	03.06.2020
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	03.11.20
<b>Date of appeal decision</b>	30.11.20
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

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# Appeal Decision

Site visit made on 13 October 2020

**by R Hitchcock BSc DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 November 2020

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**Appeal Ref: APP/L3245/W/20/3250751**

**Hayes Barn, Racecourse Road, Oswestry SY10 7PH**

- 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 Ms Sophie Dillon against the decision of Shropshire Council.
  - The application Ref 18/02843/FUL, dated 18 June 2018, was refused by notice dated 28 January 2020.
  - The development proposed is a change of use from dwelling house providing bed and breakfast accommodation to dwelling house providing bed and breakfast accommodation, A3 (Restaurant) Use Class and A4 (Drinking Establishment) Use Class.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The appeal property lies close to The Hayes, a Grade II\* listed building. There is no dispute between the main parties that the proposed development would not have an adverse effect on the setting of the listed building. Having considered the proposal and visited the site I concur with that view. Accordingly, it is my view that the development proposed would preserve the setting of the designated heritage asset and I shall make no further reference to this matter.

## Main Issue

3. The main issue is the effect of the development on highway safety.

## Reasons

4. The site is located outside of the main settlement area of Oswestry and is accessed along Racecourse Road (B4580), a national speed limit road running roughly westwards from the town. The proposed access would provide a wider vehicular entrance and exit with a demarcated centre line to enable vehicles to manoeuvre at the access in both directions simultaneously. According to the submitted plans, the access would be extended in a south-easterly direction to provide enhanced visibility on exit from the site.
5. Although the internal floor areas attributed to the proposed A3 and A4 uses shown on the submitted plans are limited, these could be augmented by the large external areas of the site such that the proposal would have significant potential to increase the frequency of traffic movements into and out of the site. In comparison to the existing mixed residential and bed and breakfast use, this would cause an increase in traffic that, in my view, would likely be at least several times that generated by the existing uses.

6. The achievable splays shown on plan ref SA29797-H-01 indicate visibility of up to about 89m in both directions for traffic emerging on to the public road. However, parts of these splays lie within areas covered by trees and vegetation which have the potential to impede the views of drivers of emerging vehicles. Furthermore, on the basis of the evidence before me, parts of the splays lie over land that is either outside of the appellant's control or the adopted highway.
7. As the majority of the land within the splays lies outside of the appeal site, in the absence of detail of any agreement with the relevant land owners to maintain the land, the only legitimate mechanism to secure the maintenance of the sightlines is a 'Grampian' condition to secure off-site works. However, the National Planning Practice Guidance (PPG) advises that such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.
8. In order to facilitate the proposed change of use, the improvements to the access would need to take place before the use commenced to ensure the safety of people attending the site. The current owner/s of part of the adjacent land have indicated that they would not currently be amenable to allowing the requisite maintenance of the land.
9. Whilst this position could change within the timescale for implementation of any permission, the nature of the works are such that there would be an ongoing requirement for maintenance due to the continuing growth of the vegetation. Any agreement that might subsequently be reached would provide comfort only insofar as that agreement prevailed. As such, no guarantee would exist in the event that either of the third-party land ownerships changed, or a change of mind occurred. The safety of the access could not therefore be assured for the duration of the development.
10. In the context of Paragraph 55 of the National Planning Policy Framework (the Framework) and advice in the PPG, whilst I find a condition requiring the formation and maintenance of the splays would be necessary, relevant and could be made precise, it would not pass the tests of reasonableness or enforceability outside any period of agreement with the landowners. Accordingly, the achievable visibility splays are limited such that highway safety would be significantly prejudiced by the increases in traffic using the access.
11. In the event that those visibility splays could be achieved, the Council's highway advisors expressed concern that the traffic speeds identified in the appellant's road speed survey results could increase as a consequence of enhanced forward visibility for drivers and that road speeds could also be deleterious to increased pedestrian flows generated by the development. The Council therefore recommended a reduction in the speed limit from 60 mph to 40 mph in the vicinity of the site, the costs of which were to be borne by the developer through a planning obligation under s106 of the Town and Country Planning Act 1990.
12. To that end the appellant has provided a unilateral undertaking to provide to the highway authority for the locality, a payment of £5k to cover its costs in implementing a Traffic Regulation Order and associated works. However, the agreement is incomplete insofar as it does not include a signed and attached plan identifying the site. Furthermore, the financial contribution is less than

that specified in the Council's highway advisor's response, dated 9 November 2019.

13. However, even if the planning obligation were complete, given my findings in respect of securing adequate visibility at the access, I find that any associated improvement to highway safety would not achieve a suitable standard of visibility. Accordingly, it would not, in itself, make the development acceptable in planning terms and it follows that the agreement would be contrary to the tests set out in Paragraph 56 of the Framework.
14. I accept that the alteration of the access would provide some benefit to visibility in comparison to the existing situation. However, in balancing the use of a substandard access by a greater amount of traffic, this is a matter of limited weight in favour of the development. It would not, therefore, outweigh the harm I have identified.
15. For the above reasons, I find that the absence of a mechanism to secure suitable driver visibility at the access for the duration of the development would conflict with Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy (2011) and Policy MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) as they seek to secure sustainable design that, amongst other things, is safe and accessible to all.

### **Other Matters**

16. I acknowledge that the proposal would support and diversify an existing business which could enhance its viability and give rise to social and economic benefits. This would align with the Council's policies which support rural enterprise and communities. However, this must be considered within the context of the aim to achieve sustainable development which includes the provision of safe accessibility. For the reasons set out above, I do not find that the proposal achieves that aim and those benefits are not sufficient to outweigh the attendant harm to highway safety in the locality.
17. Since the date of the Council's decision, some of the woodland areas about the site's access have been protected under a Tree Preservation Order. This is a matter that was raised by some third parties. Whilst I have consulted the main parties on this issue, it was not a reason for refusal by the Council. As I have found against the development on highway safety grounds, I do not consider it necessary to scrutinize the effect on trees any further.
18. I have noted the objections and letters of support from local residents and third parties to the proposal. However, in the light of my findings on the main issue of the appeal, my decision does not turn on these matters. The lack of any other objection by the Council to the proposal is not a benefit in its favour.

### **Conclusion**

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

*R Hitchcock*

INSPECTOR

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## Appeal Decision

Site Visit made on 25 September 2020

**by R Morgan BSc (Hons) MCD MRTPI**

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

**Decision date: 11 November 2020**

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**Appeal Ref: APP/L3245/W/20/3254150**

**Land adjoining Crawforton, Shrewsbury Road, Hadnall, Shropshire  
SY4 4AN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Liam McCullough against the decision of Shropshire Council.
  - The application Ref 19/04571/OUT, dated 3 October 2019, was refused by notice dated 12 December 2019.
  - The development proposed is the erection of 4 dwellings.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline with all matters reserved for future approval. I have dealt with the appeal on that basis, and treated the proposed site plan, which shows how the site could be developed, as being indicative.

### Main Issues

3. The main issues are:
  - i) whether the appeal site would be a suitable location for housing, with regard to planning policy in respect of the distribution of development and the protection of the countryside;
  - ii) the effect of the proposal on protected trees and protected species.

### Reasons

*Whether the appeal site would be a suitable location for housing*

1. The appeal site is an a roughly square shaped field which fronts onto Shrewsbury Road (A49) and has agricultural land on two sides. It is located within a linear cluster of predominately residential development along the A49, some 320 metres outside the main part of Hadnall village. This northern cluster of development is clearly separate from Hadnall, but the proposed development of four houses would erode this gap, causing harm to the setting of the village and the rural character of the area.
2. Hadnall contains basic local facilities, and whilst the distance to the main part of the village is not great and there is a pavement along the A49, it is narrow in the vicinity of the appeal site, and the route is unlit. The A49 is a fast and busy road, and would not provide a particularly pleasant route to walk or cycle to

- access local services in Hadnall. There is a regular bus service to Shrewsbury along the A49, but to access the bus stop would also require walking towards Hadnall along the busy road.
3. The proposal would provide a modest economic benefit, and there is no evidence to suggest that it would, in isolation, put unacceptable pressure on local infrastructure. However, there will be other locations available for housing in the rural area which are better related to local services and facilities, and which would more closely reflect the development strategy for the area.
  4. Policy CS1 of the Shropshire Core Strategy 2011 (CS) sets out the spatial strategy for the borough, and states that development and investment in the rural areas will be located predominately in community hubs and community clusters, where it will support the social and economic vitality of these settlements. Hadnall is not identified as such a settlement in the Site Allocations and Management of Development Plan 2015 (SAMDev), and so the village and surrounding area are treated as open countryside.
  5. CS Policy CS5 strictly controls new development in accordance with national planning policies protecting the countryside. Certain types of development are permitted in the countryside where they would support rural economic diversification and provide for local needs, but the proposal does not meet any of the exemptions listed and does not comply with the policy.
  6. I note the appellant's comments that, in a previous version of the development plan, Hadnall was treated differently, enabling incremental development to take place in the settlement which provided support for local services. Whilst that may be the case, the currently adopted plan makes provision for a level of new housing within the rural area which is sufficient to meet identified needs, without additional development in Hadnall.
  7. The Council is able to demonstrate a five year supply of deliverable sites for housing. The adopted plan is consistent with the aims of the National Planning Policy Framework (the Framework), which in paragraph 8 requires the provision of sufficient homes in locations which are accessible to services and open spaces, whilst protecting the natural environment and making effective use of land. The strategy also reflects Framework paragraph 78, which encourages planning policies to identify opportunities for villages to grow and thrive. Existing policies for the distribution of housing in the rural area are therefore up-to-date, and there are no clear reasons to allow the appeal proposal, which would fail to accord with the current development plan.
  8. The ongoing Local Plan review proposes a change in the approach to development in Hadnall, with the village being identified as a Community Hub. Provision is made in the draft plan for an additional 52 dwellings within a defined settlement boundary, including 40 units on an allocated site to the south of the village. However, progress with the Local Plan review is still at a relatively early stage. The plan has not yet been submitted for examination and may be subject to change, so limited weight can be afforded to its policies for the distribution of rural housing.
  9. Furthermore, I note the Council's comments that consideration of potential land for housing in and around Hadnall, undertaken as part of the work on the Local Plan review, excluded the appeal site, due to its separation from the main part of the village and its location outside of the proposed settlement boundary. As

such, the appeal site would still be treated as open countryside under this revised approach.

10. I conclude that the appeal site would not provide a suitable location for housing, with regard to planning policy in respect of the distribution of development and the protection of the countryside. It would conflict with the development strategy for the rural area, including Wem, as set out in CS Policies CS1, CS4 and CS5, and SAMDev Policies MD1 and S17. There is further conflict with CS Policy CS6 which requires, amongst other considerations, that development protects the natural environment.
11. In its decision notice the Council has also referred to CS Policy CS9, which is concerned with infrastructure contributions. However, the specific infrastructure requirements arising from the proposal, and the reasons for any conflict with this policy, have not been made clear. CS Policy CS11 is also referred to but the proposal does not provide for affordable housing. CS Policy CS17, regarding environmental networks, is not directly applicable to this main issue.

#### *Protected trees and protected species*

12. The line of trees along the A49 frontage of the site makes a positive contribution to the rural character of the area, and is subject to a Tree Preservation Order (TPO). Whilst the indicative layout shows the houses being sited away from the frontage, creation of an access onto the site is likely to necessitate some loss of trees.
13. I acknowledge that the position of the access is reserved for future approval, and note the suggestion that it could be moved to the other end of the site from that shown on the indicative plan, so that the impact would be on trees of lesser amenity value. However, this would still involve the loss of protected trees, the number and value of which is unclear. Insufficient information has been provided about the condition and amenity value of the particular trees most likely to be affected. As a result, it is not possible to conclude that the access can be provided in a position which would not adversely affect the protected trees.
14. Circular 06/2005<sup>1</sup> states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or habitat, and makes clear that the presence or otherwise of any protected species, and the extent that they may be affected by the proposed development, should be established before planning permission is granted. Up to date surveys are necessary to provide this information, but the submitted ecological assessment was undertaken in 2014 and the newt survey is dated 2015. Given the age of the surveys, they can no longer be relied upon to adequately demonstrate that protected species would not be harmed as a result of the proposal.
15. In the absence of further information, I am unable to conclude that the proposal would not cause unacceptable harm to protected trees or protected species. As such, the proposal conflicts with CS Policy CS17 and SAMDev Policy MD12, both of which seek to protect Shropshire's natural environment, including important trees and biodiversity. There is further conflict with Framework paragraph 170

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<sup>1</sup> Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System

which requires planning decisions to contribute to and enhance the natural environment.

**Conclusion**

16. Material considerations do not indicate that I should conclude other than in accordance with the development plan as a whole. I therefore conclude that the appeal be dismissed.

*R Morgan*

INSPECTOR



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## Appeal Decision

Site visit made on 28 October 2020

by **B Davies MSc FGS CGeol**

an Inspector appointed by the Secretary of State

Decision date: 24 November 2020

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**Appeal Ref: APP/L3245/W/20/3256953**

**Donbard House, 40 Belle Vue Gardens, Shrewsbury, SY3 7JH**

- 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 Paul Majski against the decision of Shropshire Council.
  - The application Ref 20/00693/FUL, dated 22 February 2020, was refused by notice dated 27 May 2020
  - The development proposed is the erection of replacement dwelling following demolition of existing dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The appellant has requested that the description of development be changed to that in the banner above from *'construction of two storey 3-bedroom replacement dwelling along with detached double garage and link corridor. Demolition of existing house, concrete drive and 2 outbuildings'*, and submitted new plans to reflect this. The appeal process should not be used to evolve a scheme and the Council have raised concerns on this basis. However, the Council has confirmed that it would not alter its primary reason for refusal. Third parties have made representations in respect of the garage and layout, and I do not consider that any party would be prejudiced by my acceptance of the amended description and plans. I have therefore determined the appeal on that basis.
3. The Council has also requested that Appendix 1 of the appellant's statement is disregarded. This comprises a letter from a local history enthusiast, covering a report from a local firm of architects regarding the summer house to the rear of the property, dated 11 October 2002. The Council questions whether the architect is aware that his letter has been used. If such consent was not sought by the appellant, then that would be a matter to be considered separately and outside of the determination of the appeal. I have therefore reviewed Appendix 1 as part of the appellant's submission.
4. Following submission of additional reporting relating to bats, the Council have confirmed that lack of information in this regard is no longer a reason for refusal.

## **Main issue**

5. The main issue is whether the proposal would preserve or enhance the character and appearance of the Belle Vue Conservation Area.

## **Reasons**

6. The appeal site falls within the Belle Vue Conservation Area (CA). I have been provided with a map of the CA, which shows it to be extensive, but a character appraisal is not available. I observed at the site visit that the locality comprises a mixture of modestly sized 2- to 3-storey terraced and detached housing. The defining characteristics of the area are that buildings are constructed of red brick with stone detailing and gable ended slate roofs with brick chimneys. In form, the houses are typical of those built from the second half of the 19<sup>th</sup> century onwards.
7. Donbard House is a detached, Victorian, double-bay fronted house, surrounded by mature gardens in a long plot. It is of historic interest because it was one of the first to be built along the lane at Belle Vue Gardens, by 1860. It is set back from the highway, which is a characteristic feature of the earliest, larger properties in the area. The Council also cite its modest scale, traditional design, double-pile slate pitched roof with end chimney stacks and central entrance door as being characteristic of the time that it was built. I consider that it makes a positive contribution to the character and appearance of the CA because of its early origins, traditional layout and typically Victorian form.
8. The house was covered with a roughcast render during the second half of the 20<sup>th</sup> century, which to an extent reduces its contribution to the street scene. However, as mentioned by the Council this could potentially be changed. I have therefore not attributed this factor much weight in my assessment of the contribution of the site to the CA.
9. It is proposed to demolish the existing house and replace this with a larger one built in the Georgian style. The new house would be rendered and coloured, with an imposing front entrance porch and hipped roof with a single, rendered chimney, none of which take cues from the prevailing surrounding architecture. Apart from a slate roof, the proposal does not reflect the defining architectural characteristics of the CA.
10. The appellant has drawn my attention to the terraced housing directly opposite the appeal site, which has echoes of late-Georgian architecture. However, the proposal does not merely pay homage to the Georgian era, it would clearly be in its entirety a Georgian pastiche, which would be incongruent with the prevailing appearance and character of the area.
11. The proposal is for a larger house with a frontage brought forward in the plot and a substantial porch. Rather than sitting modestly, it would be prominent in the street scene, exacerbated by its large size, unusual architecture and finish. I acknowledge that the proposed house would be set back behind a wall and trees, but for the reasons above, I consider that it would be prominent, nevertheless.
12. Through loss of a building that makes a positive contribution to the CA and replacement with a dwelling that does not draw upon the defining characteristics of the area, I consider that the proposal would not preserve or enhance the character and appearance of the CA.

13. In the context of paragraph 196 of the National Planning Policy Framework (the 'Framework') the development would lead to less than substantial harm to the CA. It is therefore necessary for me to consider whether there are any public benefits that would outweigh such harm.
14. The appellant has indicated that they would accept a condition to secure refurbishment of the summer house to the rear of the plot. Although not explicitly referring to the structure as a heritage asset, the Council describes it as likely to be contemporary with the house and useful in reinforcing the links with the original historic landscaped gardens. In the event that it was possible to reasonably impose a planning condition to deal with such a matter, I consider that the restoration of the summer house would be of modest public benefit given its historical interest in the area. However, I do not consider that these works need necessarily be dependent on the proposal being successful, which limits the weight that I attribute to this benefit, and this is not a matter which in itself would outweigh the less than substantial harm caused to the CA.
15. In addition to the above, construction of the house would generate a small, short-term contribution to the economy. I note that the new house would be made wheelchair accessible to meet national good practice standards, which is to be welcomed, but given the small scale of the development, the public benefit from this would be small.
16. The appellant suggests that a 'large proportion' of the existing house is uninhabitable and if this were the case, I concur that there would be public benefit from rectifying this. However, except the cellar, none of the problematic rooms listed in the statement relate to the original house. The Building Survey (2020) states that overall, the property is in a satisfactory condition. Although a number of significant issues were identified during the survey, there is no suggestion that most could not be overcome. I also consider that the benefits from removing the roughcast render could be achieved outside of the planning regime and, in any event, this has to be balanced against the harm caused from the erection of the proposed dwelling.
17. There would be benefits from the construction of a more environmentally sustainable building, but no evidence has been provided that this could not be substantially achieved through modifications to the existing structure. I have also had regard to the Council's view that demolition of an existing house and construction of a new one is not without environmental cost.
18. The appellant has drawn my attention to *Dorothy Bohm v SSCLG* [2017] EWHC 3217. As in this case, the building in question made a small, positive contribution to the CA. I appreciate that removal of a building does not necessarily mean that the CA overall is harmed and it is the impact of the proposal in its entirety that is the issue. Critically, the Inspector in that case found that the design of the replacement building would promote and reinforce local distinctiveness, which is not applicable here.
19. The Council recognises Donbard House as a non-designated heritage asset in its own right. The appellant disputes this because it was originally architecturally poor, and its appearance has been further eroded since that time. I acknowledge that the house may not be an example of the best of Victorian architecture and does not appear to have had important historical connections. However, the existing building undoubtedly has some heritage significance for its history and form, in addition to its contribution to the street

scene of the CA. On this basis, I do not find it unreasonable that the Council are treating the site as a non-designated heritage asset.

20. Paragraph 197 of the Framework requires that assessment of the effect of development on the significance of a non-designated heritage asset should have regard to the scale of any harm and the asset's significance. Although the significance of Donbard House may be small, I consider that the complete loss of this asset constitutes harm, nonetheless.
21. Overall, I do not consider that any of the identified public benefits would outweigh the less than substantial harm caused to the character and appearance of the CA. There would also be harm to the non-designated heritage asset through demolition of Donbard House.
22. I conclude that the proposal would not preserve or enhance the character or appearance of the CA. This harm would arise from construction of an incongruous replacement dwelling and the loss of a non-designated heritage asset. The development would therefore fail to accord with the design and conservation requirements of Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (March 2011), Policies MD2 and MD13 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (adopted 2015) and the Framework.

### **Conclusion**

23. For the reasons above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*B Davies*

INSPECTOR





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## Appeal Decision

Site visit made on 3 November 2020

**by Thomas Hatfield BA (Hons) MA MRTPI**

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

**Decision date: 30<sup>th</sup> November 2020**

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**Appeal Ref: APP/L3245/W/20/3253657**

**41 Wood Street, Shrewsbury, SY1 2PN**

- 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 Khan against the decision of Shropshire Council.
  - The application Ref 19/04715/FUL, dated 18 October 2019, was refused by notice dated 11 December 2019.
  - The development proposed is change of Use from (A1) Shop to (A5) Hot Food Takeaway Restaurant, associated alterations to the building and the associated provision of 2 no. off-street car-parking spaces.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987. These amendments include the introduction of a new broad 'commercial, business and service' use class (Class E) which incorporates the previous shops (A1), financial and professional services (A2), restaurants and cafes (A3), and offices and other business uses (B1) use classes. Paragraph 4 of the Regulations provides that: "*If prior to the commencement of the material period, a relevant planning application was submitted, or was deemed to be submitted, to the local planning authority which referred to uses or use classes which applied in relation to England and were specified in the Schedule to the Use Classes Order on 31st August 2020, that application must be determined by reference to those uses or use classes*". Accordingly, this appeal must be determined with reference to the use classes that existed on 31st August 2020.

### Main Issue

3. The main issue is whether the development would prejudice highway safety.

### Reasons

4. The appeal property is a vacant single storey unit on the corner of Wood Street and Ellesmere Road. In this regard, Wood Street is a historic residential cul-de-sac with no turning head, whereas Ellesmere Road is a main route into Shrewsbury town centre.

5. The vast majority of the properties along Wood Street rely on on-street parking, and at the time of my site visit most of these spaces were occupied. This situation is likely to worsen in the evenings when residents return home from work. When cars are parked on both sides of the street, there is little manoeuvring space and 2 vehicles are unable to pass one another. Moreover, Ellesmere Road has parking restrictions along both sides. The availability of parking is therefore very limited, and both the Council and local residents refer to significant parking stress in the area.
6. The site has recently been subject to a dismissed appeal decision (ref APP/L3245/W/19/3229377) for a similar development to that currently proposed. That scheme was also for a change of use to a hot food takeaway, albeit no dedicated parking spaces were proposed. The previous Inspector's concerns related to the lack of available car parking in the vicinity, the difficulty in turning on Wood Street, and the likelihood that this would lead to dangerous reversing manoeuvres along it. Given the situation along Wood Street, he expressed concern that the development could also attract illegal parking along Ellesmere Road, which would also have safety implications. In this regard, I note that the appeal site is positioned on a junction, which could encourage illegal parking on the corners.
7. The current proposal differs from the previous scheme in that it would include 2 dedicated parking spaces at the rear of the site. These would be accessed via Wood Street and the appellant states that they would be reserved for customers and deliveries only. However, there is no mechanism before me to prevent staff from using these spaces, and I note that up to 4 employees would be present at the site at any one time. Whilst it is asserted that staff would be dropped off and collected at the start and end of shifts, there is no means of enforcing this, or of ensuring that this arrangement continued if the business were sold on. Moreover, a condition restricting the use of the proposed spaces would be very difficult, if not impossible, to enforce.
8. The submitted plans indicate that an additional on-street parking space could be provided along Wood Street. However, given the extent of parking stress in the area, this additional space may simply be absorbed by existing demand from residents.
9. I note that the site was previously used as a convenience store and post office, with unrestricted opening hours, and that it could return to this use at any time. However, the appellant's submission states that the previous store lost its prominence when the nearby Premier convenience store opened, and the post office relocated to it. In this regard, I note that the Premier store is only around 100 metres from the appeal site, is significantly larger, and benefits from off-street parking. It is unlikely that the appeal building would reopen as a convenience store in these circumstances. In any case, I am not persuaded that a retail use in this location would attract the same amount of parking in the evening as a hot food takeaway. Similarly, whilst the building could be put to a number of other uses without the need for planning permission, these would be unlikely to generate the same demand for parking at this time.
10. Separately, I note that the submitted TRICs data is based on A3 restaurant uses rather than hot food takeaways. Moreover, a number of the selected examples are national chains that are unlikely to offer a significant takeaway

element. The number of trips indicated in the TRICs data may therefore not be representative of the appeal proposal.

11. I further note that a large builder's merchant was previously located at the far end of Wood Street and was accessed via this route. However, that use is unlikely to have operated into the evening, and in any case, vehicles would have been able to turn within the site rather than needing to do so on Wood Street itself.
12. It is asserted that the current pandemic has moved a significant amount of takeaway ordering to online and delivery services. In this regard, the appellant has provided information to show that their existing restaurant and takeaway business generates more than half of its income from online ordering. However, most online ordering services also have a collection option, and so many of these customers would still need to visit the store in person. In any case, a significant proportion of trade would not involve online ordering or delivery services. The site's position on a main road is also likely to attract trade from passing drivers, as noted by the previous Inspector.
13. For the above reasons, I conclude that the development would be likely to prejudice highway safety. It would therefore be contrary to Policy CS6 of the Shropshire Core Strategy (2011), and Policy MD2 of the Shropshire Site Allocations and Management of Development Plan (2015). These policies seek to ensure, amongst other things, that new development is designed to be safe and accessible, and that there is sufficient infrastructural capacity to serve it.

### **Other Matters**

14. It is asserted that the development would lead to noise and disturbance to neighbouring properties in the evening. However, I note that it would front onto Ellesmere Road rather than Wood Street, which is a busy main road with a significant amount of background noise. The trading hours of the business could also be controlled by condition. In terms of the potential for litter accumulation, I note that a litterbin is positioned directly outside of the premises.

### **Conclusion**

15. As set out above, I conclude that the development would be likely to prejudice highway safety and would be contrary to the development plan in this regard. Whilst it would bring a vacant building back into use, and would generate new jobs and other economic benefits, that does not alter my view that the appeal should be dismissed.

*Thomas Hatfield*

INSPECTOR

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