

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

Date: Monday, 16 May 2022

Committee: Northern Planning Committee

Date: Tuesday, 24 May 2022

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

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

There will be some access to the meeting room for members of the press and public but this will be limited. If you wish to attend the meeting, please email democracy@shropshire.gov.uk to check that a seat will be available for you.

The meeting can be viewed live via Microsoft Teams using the link below. The recording will be made available on YouTube, this will be made accessible from the web page for the meeting shortly afterwards.

<https://shropshire.gov.uk/NorthernPlanningCommittee24May2022>

The Council's procedure for holding Socially Distanced Planning Committees including the arrangements for public speaking can be found by clicking on this link:
<https://shropshire.gov.uk/planning/applications/planning-committees>

Tim Collard
Interim Assistant Director – Legal and Democratic Services

Members of the Committee

Joyce Barrow
Garry Burchett
Geoff Elner
Ted Clarke
Vince Hunt
Mark Jones (Vice Chairman)
Mike Isherwood
Edward Towers
David Vasmer
Alex Wagner
Paul Wynn (Chairman)

Substitute Members of the Committee

Gerald Dakin
Steve Davenport
Julian Dean
Nat Green
Nigel Hartin
Pamela Moseley

Your Committee Officer is:

Emily Marshall / Shelley Davies Committee Officer

Tel: 01743 257717 / 01743 257718

Email: emily.marshall@shropshire.gov.uk / shelley.davies@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 26th April 2022 and 12th May 2022 – Minutes To Follow.

Contact: Emily Marshall on 01743 257717; or
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 5.00pm on Wednesday, 18th May 2022.

4 Disclosable Pecuniary Interests

Members are reminded that they must declare their disclosable pecuniary interests and other registrable or non-registrable interests in any matter being considered at the meeting as set out in Appendix B of the Members' Code of Conduct and consider if they should leave the room prior to the item being considered. Further advice can be sought from the Monitoring Officer in advance of the meeting.

5 Rowleys House, Barker Street, Shrewsbury - 22/00817/LBC (Pages 1 - 8)

Internal and external alterations in association with replacement and repair of infill panels and repair of associated timber frame, affecting a Grade II * Listed Building.

6 Dragon King, Old Potts Way, Shrewsbury - 22/00252/FUL (Pages 9 - 22)

Erection of drive-through restaurant following demolition of existing restaurant.

7 Proposed Telecoms Shelter on Car Park at Bainbridge Green, Shrewsbury - 22/01506/FUL (Pages 23 - 28)

Installation of a telecoms shelter, security fencing and associated works.

8 Appeals and Appeal Decisions (Pages 29 - 60)

9 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, 21st June 2022.

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Committee and Date
 Northern Planning Committee
 24th May 2022

Item
5
 Public

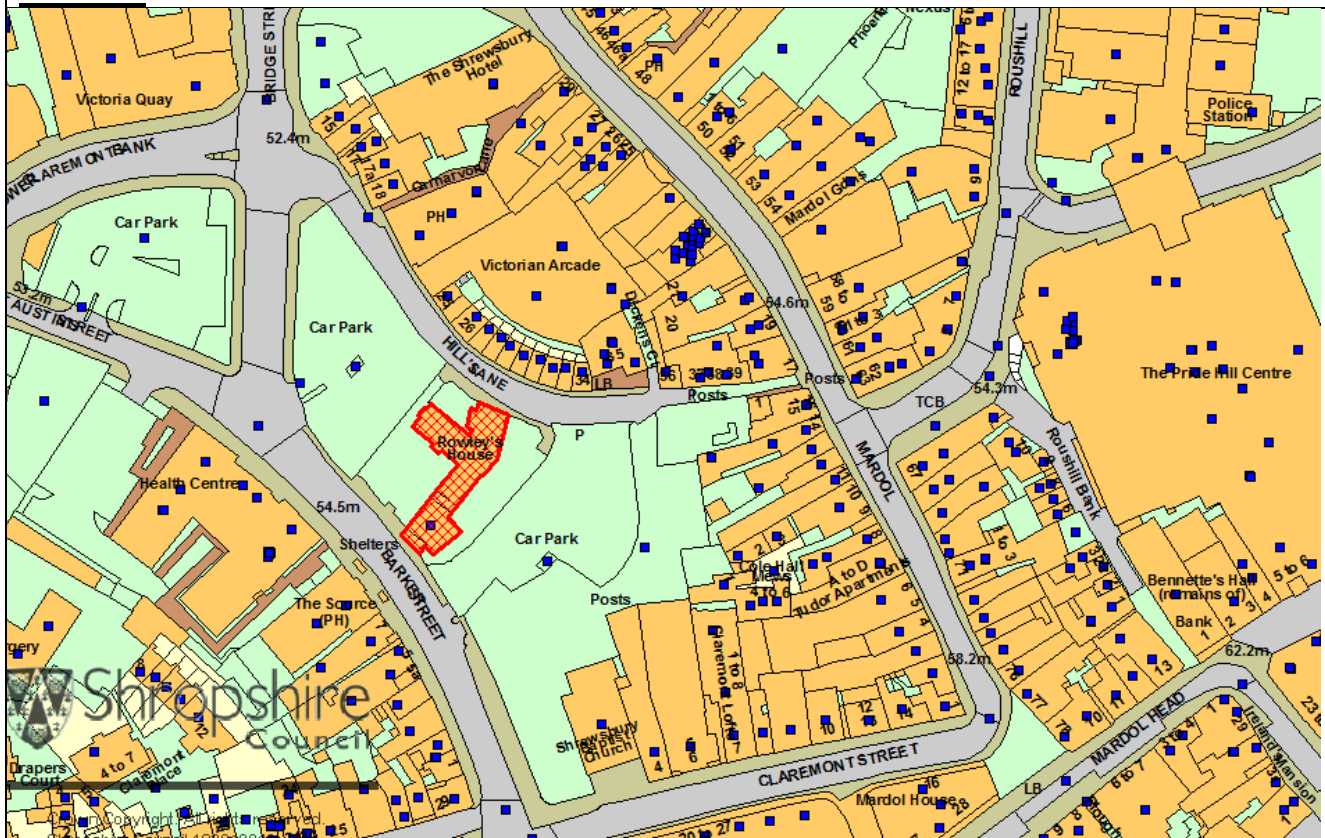
Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 22/00817/LBC	Parish:	Shrewsbury Town Council
Proposal: Internal and external alterations in association with replacement and repair of infill panels and repair of associated timber frame, affecting a Grade II * Listed Building		
Site Address: Rowleys House Barker Street Shrewsbury Shropshire SY1 1QH		
Applicant: Shropshire Council (Property and Development)		
Case Officer: Karen Rolfe	email: historic.environment@shropshire.gov.uk	

Grid Ref: 348940 - 312581



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Recommendation: Grant Listed Building Consent subject to the conditions set out in Appendix 1.

Recommended Reason for Approval

The approved works are acceptable on heritage grounds and will not have an adverse impact on the special architectural and historic character or the setting of the listed building and are considered to be in accordance with local and national policies with respect to the historic environment including Core Strategy Policies CS6 and CS17, MD2 and MD13: The Historic Environment (SAMDev Adopted Plan), Historic England Guidance and the National Planning Policy Framework (NPPF), as well as in accordance with the requirements of Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

REPORT**1.0 THE PROPOSAL**

- 1.1 This listed building consent application proposes limited works to replace several existing infill panels at upper floor level to Rowley's House and Mansion, which are prominent interconnected former houses of late 1500 and early 1600 construction situated prominently in the Shrewsbury town centre off Barker Street and within the core of the Shrewsbury Conservation Area. The buildings are listed at Grade II* level due to their considerable historic and architectural significance.
- 1.2 Scaffolding has been erected for some time within the buildings' curtilage to protect areas within the public realm where there is a desire to undertake particularly urgent repairs with the aim of both allowing for deteriorating areas of the buildings to be rectified and to work towards getting at least some of the scaffolding removed.
- 1.3 As outlined in the Schedule of Works prepared by the Senior Conservation Officer and Technical Specialist, the proposal would allow for localised timber frame repairs as well as removal and replacement of 20th Century blockwork infill panelling where these would be replaced with lightweight insulated panels comprised of vapour permeable materials. With the removal of the existing blockwork panels the timber frame will be inspected with appropriate repair work undertaken prior to the new lightweight panels being inserted.
- 1.4 Given the Grade II* listed status of the buildings, the works were discussed at an early stage with Historic England representatives and Historic England have been consulted and have provided formal comments in support of the localised works proposed, highlighting the important nature of Rowley's House and Mansion and emphasizing the high standard of specialist craftsmanship required to implement these works. Due to the change of material to the panels and the intrusive nature of the works albeit where these are limited in extent and quite localised, it was agreed that a formal listed building consent application would be requested to cover these works and allow for formal consultation advice to be provided from Historic England.

- 1.5 A section detail of the new infill panels has been provided and PSG have prepared a supporting Statement further explaining the works proposed under this application.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Rowley's House and Rowley's Mansion are prominent adjacent and inter-connected late 16th Century and early 17th Century historic and architecturally significant buildings within the Shrewsbury town centre closely fronting both Barker Street and Hill's Lane and located within the Town Centre Special Character Area of the larger Shrewsbury Conservation Area. The buildings are listed at Grade II* under list entry number 1254524. Significant works to the buildings were undertaken in 1932 where archival photographs available indicate the extent of works at that time.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1 The proposal does not comply with the Council's scheme of delegation as set out in Part 8 of the Shropshire Council Constitution as the application is made by Shropshire Council in relation to land owned by the Council for development that is not in line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 **Historic England:** *Built in the late 1500s by Roger Rowley a successful wool merchant, the imposing timber framed Rowley's House, and elegant brick Mansion built by his son in 1618 are located within the core of the Shrewsbury Conservation Area. These interconnected former houses are listed Grade II* in recognition of their considerable historic, and architectural significance. The Mansion is also believed to be the earliest brick building in Shrewsbury*

Given their importance we would draw your attention to the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 regarding the preservation of listed buildings and their settings, and the preservation or enhancement of the character or appearance of conservation areas. We would also highlight Section 16 of the National Planning Policy Framework, which states that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.

As you will be aware, we were contacted by your Authority at the end of last year regarding the deterioration of some of the timber frame infill panels, related to repairs carried out as part of the 1932 renovation works.

Having considered the current application, the Schedule of Works would appear to be the same one we considered in December last year, with further clarification provided by the infill section detail plan. We therefore have no additional comments to make, but in the interests of consistency we have repeated our previous observations for your records.

Based on the information provided we understand that the majority of infill panels are formed of lightweight blockwork covered in a cement-based render. This being the case the proposal to cut out a perimeter strip, caulk the interface with oakum and make good the render seems straightforward and measured.

Whilst we have no objection in principle to a hybrid hot-mixed lime mortar being used we did previously highlight that it was necessary to confirm whether this would be compatible with the strength and density of the existing mortar. We noted that since the repair is only 25 mm wide there is the potential that it could crack and de-bond. In December we recommended that this be discussed further with you and your team. We also noted that the Schedule indicates that there is a degree of uncertainty until scaffolding access is available and the full extent of the repairs can be confirmed. Whilst this is understandable, we emphasised that it is essential that the contractor works closely with you as the works progress.

With regard to the replacement infill panels we highlighted that seasonal movement is a particular consideration with timber framed buildings, and advised that traditional wattle and daub or hemp lime infill panels are excellent at dealing with this. Whilst we would not object to the approach identified and the use of more modern interventions, we did highlight that their success would rely on a high standard of craftsmanship to ensure the materials are precisely cut and scribed to the surrounding timber frame components. We therefore again noted that the ongoing close involvement of your specialist conservation team is essential.

We hope our advice is of assistance, and your authority should take these representations into account in determining the application. If there are any material changes to the proposals do please contact us. Please advise us of the decision in due course.

4.2 Public Comments

4.2.1 Shrewsbury Town Council: *The Town Council raises no objection to this application.*

4.2.2 Shrewsbury Civic Society: *Shrewsbury Civic Society is pleased to see progress being made on the restoration and repair of one of Shrewsbury's most iconic buildings. We are also pleased to note that it is the intention to remove at least two of the scaffolding towers as soon as possible.*

5.0 THE MAIN ISSUES

Principle of development
Detail of works
Visual impact

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 These localised works are supported to address degradation and failure of specific

areas of the timber frame of this important and historic town centre building and facilitate improvements to the associated infill panels with removal of poor quality and inappropriate panels and replacement with panels of lighter weight and more permeable materials as recommended by our senior conservation technical specialist.

6.2 Detail of works

6.2.1 The new infill panel section details are included in this proposal. It is the intention that relevant timber framing will be fully inspected by specialist contractors and appropriate and localised timber frame repairs be undertaken at that time, where we would emphasize the recommendations from Historic England on the continued involvement of our specialist Historic Environment Team officers and the need for specialist contractors to carefully undertake and implement these works.

6.3 Visual impact

6.3.1 There is anticipated to be a positive visual impact with the future removal of associated scaffolding around the building as well as improvements in the appearance of the building with the repair of degraded areas of the timber frame.

7.0 CONCLUSION

With works based fully on the schedule of works and the infill panel section details prepared and submitted with this listed building consent application and emphasising the recommendations from Historic England in terms of the Historic Environment Team and PSG together working closely with the specialist contractors to ensure these localised repair works are implemented carefully and to a very high standard, it is considered that the application for these repair works to Rowley's House and Mansion meet the requirements of the National Planning Policy Framework (NPPF) as well as the legislative requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Policies CS6 and CS17 of the Core Strategy as well as Policies MD2 and MD13 of the SAMDev and there is no objection on heritage grounds to the works proposed.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance: NPPF

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

RELEVANT PLANNING HISTORY:

15/00066/FUL Change of use from current D1 (Museum) to D1 (Education and Administration)
GRANT 12th March 2015

11. Additional Information

List of Background Papers

22/00817/LBC - 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=R7I2EZTD07U00>

Cabinet Member (Portfolio Holder): Councillor Ed Potter

Local Member: Cllr Nat Green

Appendices

APPENDIX 1 – Conditions

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

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

Reason: To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) 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. All works shall be carried out in complete accordance with the terms of the application and approved plans.

Reason: To ensure the satisfactory preservation of the Heritage Asset.

4. If hitherto unknown architectural evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record, together with recommendations for dealing with it in the context of the scheme, shall be submitted for written approval by the Local Planning Authority.

Reason: To ensure architectural features are recorded during development.

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Committee and Date
Northern Planning Committee
24th May 2022

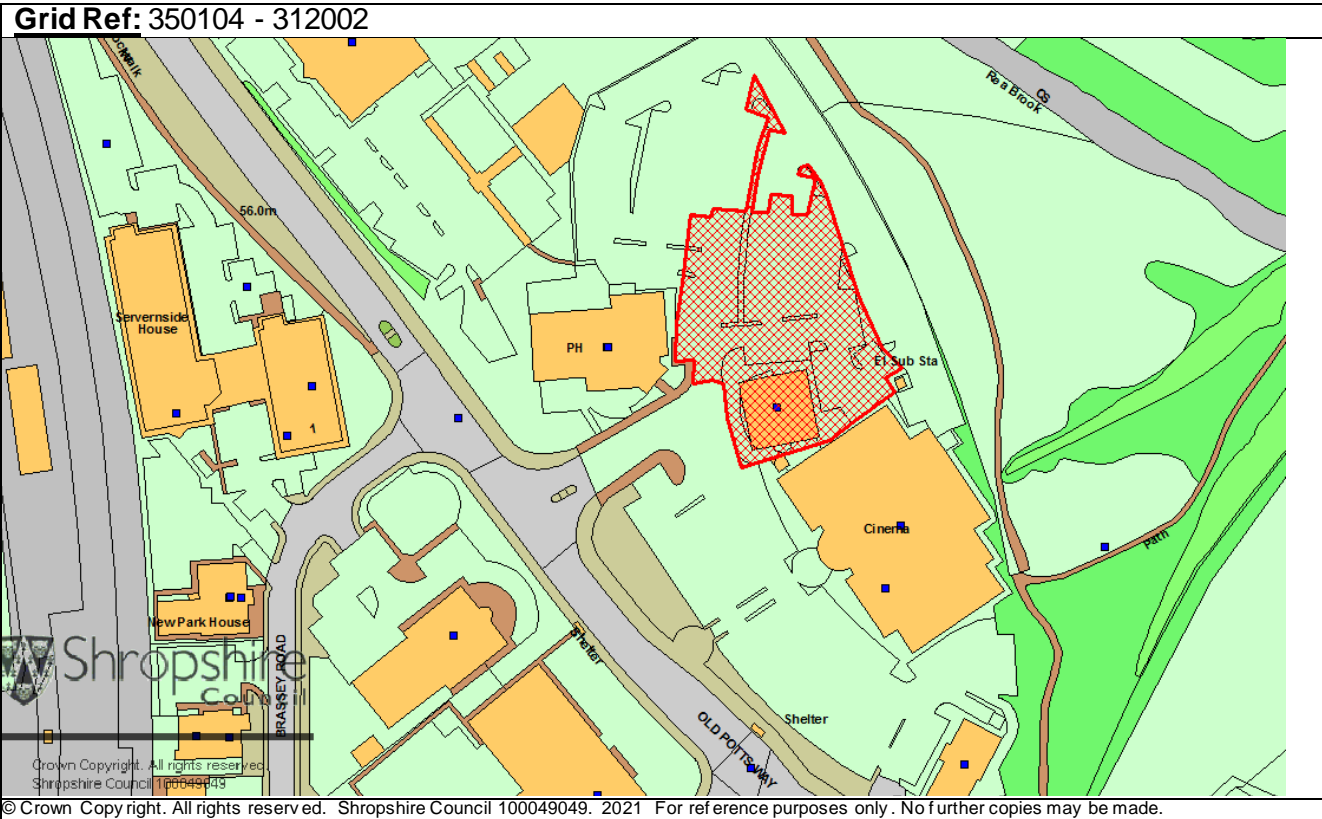
Item
6
Public

Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 22/00252/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of drive-through restaurant following demolition of existing restaurant		
Site Address: Dragon King Old Potts Way Shrewsbury Shropshire SY3 7ET		
Applicant: ESN (Scotland) Ltd (SPPS)		
Case Officer: Jane Raymond	email	: jane.raymond@shropshire.gov.uk



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

REPORT

1.0 THE PROPOSAL

- 1.1 This planning application is for the erection of drive-through restaurant following demolition of the existing restaurant.
- 1.2 The proposal also includes re-arrangement of some of the parking spaces and roadways within part of the car park to the north of the proposed single storey restaurant building.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application relates to the former Chinese restaurant and part of the car park north of the cinema (Cineworld) situated off Old Potts Way within the Abbey Foregate area north of Shrewsbury town centre.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

4.0 Community Representations

4.1 Consultee Comment (latest comments only)

- 4.1.1 **WSP on behalf of SC Drainage (20.04.22):** *The proposed surface water drainage is now acceptable and a pre- commencement drainage condition is not required.*
- 4.1.2 **SC Highways (11.04.22):** *Following the submission of the revised layout and further information, I can confirm that Shropshire Council as Highway Authority raises no objection to the granting of consent.*

Recommends Planning conditions to be attached to any permission granted.

- 4.1.3 **SC Trees (03.05.2022):** *An amended landscape scheme and updated planting details have been provided. To replace the loss of the existing car park trees 17 new trees are proposed and have been moved to the existing tree belt to the front of the site and consist of native specimens of Silver Birch, Hornbeam and Pine.*

These new proposals mean the trees have a better chance of establishment and will add to screening provided by the boundary planting.

Has no objections on the grounds of trees subject to the imposition of a landscaping condition being imposed on any approval.

4.1.4 **SC Ecology:** Advised prior to the submission of the application that an Ecological assessment is not required and that standing advice should be followed.

4.1.5 **SC Regulatory services**

(05.04.2022): Odour *I have examined the details of the amended odour report '220312 McD Shrewsbury Odour control RevA' and consider the additional odour abatement and maintenance proposals detailed in section 8 and 9 suitable to control impact upon the locality.*

(02.03.2022) Amenity/Noise *Based upon the noise assessment provided and the location of the site I would not expect the proposals to have any adverse noise impact upon amenity of residential dwellings in the surrounding area.*

(02.03.2022) Contaminated Land *A report by DTS Raeburn, Geotechnical, & Environmental Engineering; Preliminary Risk Assessment for a Site at Old Potts Way, Shrewsbury; Contract No. E13548/1, Issue 1 November 2021, FINAL has been submitted in support of this planning application.*

This report is essentially a Phase I Desk Study and at the time of reporting, a ground investigation was being undertaken to enable a quantitative assessment of the extent of ground contamination, including potential risks from soil gas present at the site, and the potential associated risks to the identified receptors.

Recommends that if planning permission is granted a contaminated land condition should be included on the decision.

4.1.7 **SC Conservation** (03.03.2022): *This application follows on from a formal Pre-application enquiry where we would repeat our comments provided at that time - This block along Old Potts Way comprises a series of modern commercial buildings and the demolition of the existing restaurant would not raise objection in terms of loss of a heritage asset. The boundary of the Shrewsbury Conservation Area (Abbey Foregate Special Character Area) runs along the Rea Brook to the north-east of the subject site where these commercial properties are outside of the Conservation Area boundary. With this in mind and given the proximity of higher level designated heritage assets in the wider area such as the Shrewsbury Abbey to the north along Abbey Foregate, while there would be no objection to a new restaurant here it should comprise an acceptable and recessive colour scheme and external finishes suitable to the context of the area, and signage should be kept modest and not of an excessive height if of the stand alone type, with external illumination kept to a low level.*

4.2 **Public Comments**

4.2.1 **Shrewsbury Town Council:** The Town Council object to this application. There is insufficient information provided on sustainable travel to the site and the potential mitigating environmental impacts that may occur. Concerns were raised that littering may be an issue and this may have a detrimental impact upon the neighbouring Reabrook Valley. Members fully support the comments made by

Shropshire Council Tree Officer with the regards to their concerns that they were not consulted at the pre-application stage and the proposed removal of a large number of trees, which seems an unnecessary action to take.

4.2.2 **Shrewsbury Civic Society:** Shrewsbury Civic Society endorses the report from the Shropshire Council Tree Officer concerning the proposed removal of a large number of trees. It is our opinion that there is no substantive reason for this. The society is also concerned about the potential increase in litter and its likely effect on the Rea Brook Valley. Shrewsbury Civic Society objects to this application.

4.2.3 17 letters of objection summarised as follows:

The cinema and Nandos' and all businesses that operate here bring traffic, noise and lights but they stop operating at midnight.

This proposal will result in increased traffic resulting in noise and air pollution for 24 hours (particularly at night)

Increased use of car park (particularly at night)

Reduced access in car park for junior football teams at weekends

Loss of car park spaces for emergency use during town flooding

Old Potts Way is already a busy and major route into Shrewsbury town centre and already suffers congestion at busy times and the proposal will exacerbate this and result in increased traffic and congestion in Old Potts Way during the day

Concerned that drivers seeking to avoid the congestion in Old Potts Way will instead use the residential streets of Sutton Lane, Adams Ridge, Grove Road, Reabrook Avenue and Rocke Street as a short cut.

There can be long queues at the Meole Brace drive through.

There are already two 24 hour drive through McDonalds restaurants in Shrewsbury and due to the proximity of another branch there is no need for another one at this site.

It will result in cars racing around the car park late at night

Increase in the level of vandalism, ant-social behaviour and drug dealing on the car park particularly at night.

There will be an increase in litter that will find its way into the hedgerows and surrounding areas, including streets, the football pitch and park at Rocke Street and also the Reabrook Nature Reserve with consequences for wildlife and increases in rodent numbers.

The proposal would be detrimental to quality of the local residential areas nearby.

The 24 hour availability of fast food has played a large part in encouraging people to eat the wrong food and its ready availability has exacerbated the problem.

It is reckless to be supporting another fast food outlet when we have two thirds of the population overweight with an increasing burden on the NHS

Providing local employment does not negate the more damaging long term problem of the impact on people's health

There is no provision for electric vehicle charging points.

4.2.3 A petition signed by approximately 115 residents has been received.

5.0 THE MAIN ISSUES

Principle of development
Visual impact
Landscaping, trees and ecology
Traffic, parking and highway impact
Residential amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site is an established commercial site currently providing a cinema (Cineworld) and three restaurants (Harvester, Nando's and the former Dragon King). The original planning permission for this site was granted in November 1997 (SA/97/0079/020/97) for the 'Erection of a multiscreen cinema, pub/restaurant with staff accommodation, restaurant and drive thru restaurant, provision of car parking spaces together with access onto Old Potts Way.' The site of the now Nando's restaurant was for a drive through restaurant and was originally occupied by Burger King.

6.1.2 The principal of there being a drive through restaurant as part of the wider site has therefore previously been established. The proposal is for a 371 square metre restaurant in place of a 367 square metre restaurant. Due to the minimal increase in floor area and that the overall size is less than the 500 square metre threshold outlined in policy MD10b, a town centre impact assessment is not required.

6.1.3 The applicant has undertaken a sequential assessment as required by paragraph 87 of the NPPF. Paragraph 88 of the NPPF indicates that when considering edge of centre locations (such as this site) for main town centre uses preference should be given to accessible sites which are well connected to the town centre. The submitted statement provides the following parameters for the search for alternative and suitable sites within or on the edge of Shrewsbury Town Centre:

- *Have a site area of at least 0.3 hectares; and*
- *Be capable of accommodating a building of at least 371 square metres; and*

- *Be capable of being served by circa 50 car parking spaces; and*
- *Be in a prominent roadside location close to the strategic road network; and*
- *Be financially viable.*

The Practice Guidance indicates that '*If there are no suitable sequentially preferable locations, the sequential test is passed*'. The search undertaken demonstrates that there are no suitable available alternative sites for the proposed development that meet the requirements of the proposal.

- 6.1.4 The proposed replacement restaurant that also offers a drive through facility is considered acceptable in principle in this edge of town centre location and would accord with CS2, CS15, CS16 and MD10a.

6.2 Visual impact

- 6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character.
- 6.2.2 The proposed site is not within a conservation area but Shrewsbury Conservation Area (Abbey Foregate Special Character Area) is to the north east. The proposal therefore also has to be considered against national policies and guidance including section 16 of the National Planning Policy Framework (NPPF) and Shropshire Council policies MD13 and CS17 which seek to ensure that development protects and enhances the local character of the built and historic environment. Special regard has to be given to preserving or enhancing the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.2.3 The Conservation officer has reviewed the proposal and has no objection to the proposed replacement building subject to external finishes suitable to the context of the area and that signage should be kept modest and illumination kept low. Any signage (illuminated or non-illuminated) would be the subject of a separate application for advert consent.
- 6.2.4 The proposed building is a contemporary design with a mixed palette of external materials including brick, wood cladding and stone effect cladding and grey framed windows and doors. It is considered that the scale, design and appearance of the building is appropriate given the context of the site and is an improvement compared to the existing building. It is therefore considered that the proposal would have no adverse impact on the character and appearance of the locality or the adjacent conservation area.
- ## 6.3 Landscaping, trees and ecology
- 6.3.1 Due to the footprint of the new replacement building, the required changes to the car park layout and internal roads to facilitate the drive through element and the associated construction works, the proposal will require the removal of 29 trees. SAMDev policy MD12 seeks to ensure that development proposals avoid harm to

Shropshire's natural assets and '*encouraging development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being in poor condition*'. With regards to trees it refers to the protection of important woodlands, trees and hedges and visual amenity.

- 6.3.2 The submitted arboricultural report puts the trees in to categories in accordance with BS 5837 and indicates that the existing trees are not exceptional probably due to poor planting and ground conditions. BS 5837 indicates that Category U trees should be recommended for removal due to their poor condition rather than to facilitate development; Category C trees are smaller trees and/or are considered to be of low quality and have a limited life expectancy and such trees should not be considered as a constraint against development; Category B trees are smaller trees that have a longer life expectancy than category C trees and Category A trees are generally large, high-quality trees that significantly contribute to the visual amenity of the environment and retained when ever possible.
- 6.3.3 The report indicates that none of the trees are category A and of the 29 trees proposed to be removed 8 are category U (which need to be removed anyway), 14 are category C and 6 are category B. The tree officer concurs with the categorisation but initially objected to the proposal as the proposal did not indicate satisfactory compensatory tree planting and suggested that it could be subject to planning condition.
- 6.3.4 A revised layout and landscaping plan has now been provided that indicates 17 new trees to be planted within the wider site area which is under the same ownership. The landscaping plan also indicates a planting specification and details of future maintenance to demonstrate that the new trees can become established and grow to reach maturity.
- 6.3.5 The tree officer has no objection to the application and does not consider that more tree planting is required to compensate for the loss of 14 category C and 6 category B trees. The proposal will not result in the loss of significant higher quality trees, and it is considered that the 17 new trees proposed more than compensate for the loss of these predominantly poor quality trees and will provide enhanced tree planting that will contribute to the visual amenity of the area in accordance with MD12.
- 6.3.6 At the pre-app stage the Councils Ecologist requested that an Ecological assessment be submitted to support any application. The site area comprises a brick building constructed in the 1990s with no potential for bats situated within significant areas of existing tarmac car parking that is punctuated by individual juvenile trees planted in tree pits that are generally of poor quality and success and offer low ecological value. The proposal indicates that the existing hedgerow boundary with the Rea Brook Valley corridor will be retained and the ecological network provided by the Valley corridor would therefore not be affected.
- 6.3.7 The Councils Ecologist prior to the submission of the application concurred with the applicants assessment that given the existing site function, surface finishes and conditions and the very limited 'green content' within the existing site an Ecological

assessment is not required. The proposal now includes a landscape proposal to include native tree and shrub species selected for appropriateness for location and these trees have a better chance of establishment than the previous tree planting. The proposed landscaping should therefore provide some ecological enhancement compared to the existing.

6.4 Traffic, parking and highway impact

- 6.4.1 The site access is off Old Potts Way that provides access to the cinema and 2 other restaurants and no changes are proposed to this access. There are currently a total of 458 parking spaces including 18 spaces reserved for Blue Badge Holders within the overall car park. The proposal includes reconfiguration of the car park to facilitate the development with an overall loss of 44 parking spaces to 414 spaces including 18 reserved for Blue Badge Holders and two grill bays. Customers are free to choose where they park to suit the venue/venues they are visiting. The proposal also indicates parking for up to 6 bicycles adjacent to McDonald's with the provision of 3 sheffield stands.
- 6.4.2 A Transport Assessment has been submitted that considers the potential highways and transport effects of the proposals in relation to access, accessibility, parking, servicing and traffic impact. Highways have reviewed the application and have no objection to the proposal with regards to car park capacity, traffic generation and/or impact on congestion in the local area or highway network.
- 6.4.2 Highways, however, initially raised concern that the proposal gave priority to vehicles within the site rather than to pedestrians and that the application needed amending in order to ensure the safe and free movement of pedestrians across the frontage and between the existing on-site facilities and the adjacent car parking areas. The site layout as amended now indicates 2 pedestrian crossings within the leisure/retail park where pedestrians can cross the internal roads to go between the site and the cinema and the other two restaurants and car parking areas. Highways have no objection to the internal layout and crossing points as now proposed.
- 6.4.3 The town council in their initial comments raised concern that insufficient information has been provided on sustainable travel to the site. The proposal includes a drive through element which is designed to serve customers in their car but it will also provide a sit-in and take-away facility (as did the existing restaurant). The site is situated within reasonable walking distance of the town centre and is accessible by other modes of transport beside the private car including walking and cycling and public transport. It is considered that the site is sustainably located with regards to customers being able to access the site by a variety of means and the proximity to other services and facilities in the locality and also within the town centre would also promote combined trips.

6.5 Residential amenity

- 6.5.1 The Town Council, the Civic Society and some local residents have raised concern regarding litter in the surrounding streets and adjacent nature reserve as a consequence of the proposal. The proposal includes adequate provision of litter

bins and provides a litter management plan which is recommended to be the subject of condition. However, the perception that customers will not use the litter bins provided or would litter the surrounding streets whether from their cars or on foot is not a justifiable reason to refuse a planning application.

- 6.5.2 Other issues raised by residents relate to the 24 hour trading and the potential for noise and disturbance and anti-social behaviour in the car park and surrounding streets. A noise and odour survey has been submitted and Regulatory Services are satisfied that the proposal would not impact on amenity with regards to noise and odour from cooking and extraction equipment. The proposal in any case replaces an existing restaurant and is sited some way away from residential properties.
- 6.5.3 With regards to 24 hour opening an additional statement has been provided that indicates that 'McDonald's restaurants take approximately two hours to close and two hours to open, requiring intensive working and resulting in only two hours when limited staff would not be at work and therefore overnight opening makes sense'. It also explains that 'the restaurant provides for shift workers, the limited transient population and typically the emergency services' and is 'a family restaurant and has no intention of causing undue problems'.
- 6.5.4 This statement also points out that 'opening after 11pm and before 5am requires a licence issued by the council and licencing can therefore restrict opening hours should the proposed store cause problems at any time'. Regulatory Services have also not raised any concern about 24 hour opening resulting in noise and disturbance from customers or vehicles and highways are not objecting and do not consider that the proposal would result in a significant increase in traffic. It is therefore not considered necessary to impose a planning condition to restrict opening hours.
- 6.5.4 Some objectors refer to existing anti-social and criminal activity on the existing car park overnight when the businesses have closed and that this proposal will exacerbate this. However, staying open all night and maintaining a presence on site and with some staff and customer use of the car park would hopefully deter this activity. With regards to comments that the proposal should not be permitted as it would encourage people to eat the wrong food and contribute to obesity and health problems it should be noted that the site is not within walking distance of a school and also replaces an existing restaurant and takeaway.

7.0 CONCLUSION

- 7.1 The proposed replacement restaurant that also offers a drive through facility is considered acceptable in principle in this sustainable edge of town centre location that is accessible by other modes of transport beside the private car and is located in proximity to other services, facilities and employment that provides opportunity for combined trips. It is also considered that the proposal would have no highway safety implications with regards to car park capacity, traffic generation and/or impact on congestion in the local area or highway network.
- 7.2 It is considered that the scale, design and appearance of the building is appropriate

given the context of the site and is an improvement compared to the existing building. The proposal will not result in the loss of high quality trees and it is considered that the specification for the planting of native tree species indicated on the revised landscaping proposal will have a better chance of establishment than the previous tree planting and will more than compensate for the loss of these predominantly poor quality trees and will also provide some ecological enhancement. It is considered that the proposed replacement building combined with the enhanced tree planting that will contribute to the visual amenity of the area would preserve and enhance the character and appearance of the locality and the adjacent conservation area.

7.3 Regulatory Services have confirmed that the proposal would not impact on amenity with regards to noise and odour from cooking and extraction equipment and have also not raised any concern about 24 hour opening resulting in noise and disturbance from customers or vehicles, and highways do not consider that the proposal would result in a significant increase in traffic. It is considered that the proposal would have no significant adverse impact on residential and local amenity compared to the existing use and it is not considered necessary to restrict opening hours as opening after 11pm and before 5am requires a licence which can be restricted should the 24 hour opening cause problems.

7.4 Having regard to the above it is considered that the proposal accords with the policies relevant to the determination of this application including CS2, CS6 CS15, CS16, CS17, MD2, MD10a, MD12 and MD13

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and Site Allocations and Management of Development (SAMDev) Plan:

CS2, CS6 CS15, CS16, CS17, MD2, MD10a.MD12 and MD13

RELEVANT PLANNING HISTORY:

SA/97/0079 Erection of a multi screen cinema, pub/restaurant with staff accommodation, restaurant and drive thru restaurant, provision of car parking spaces together with access onto Old Potts Way. PERCON 3rd November 1997

11. Additional Information

List of Background Papers

22/00252/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=R5X67FTDKWV00>

Cabinet Member (Portfolio Holder) - Councillor Ed Potter

Local Member - Cllr Ted Clarke Cllr Tony Parsons Cllr Rosemary Dartnall

Appendices

APPENDIX 1 – Conditions

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

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with current Environment Agency guidance 'Land Contamination: Risk Management (LCRM)'. The Report is to be submitted to and approved in writing by the Local Planning Authority before development commences.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a

remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

4. No development shall take place, including any demolition works, until a construction management plan incorporating a method statement has been submitted to and approved in writing by the Local Planning Authority. and shall provide for:

- i. A construction programme including phasing of works;
- ii. 24 hour emergency contact number;
- iii. Hours of operation;
- iv. Expected number and type of vehicles accessing the site:
 - o Deliveries, waste, cranes, equipment, plant, works, visitors;
 - o Size of construction vehicles;
 - o The use of a consolidation operation or scheme for the delivery of materials and goods;
 - o Phasing of works;
- v. Means by which a reduction in the number of movements and parking on nearby streets can be achieved (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction):
- vi. Routes for construction traffic, avoiding weight and size restrictions to reduce unsuitable traffic on residential roads;
- vii. Locations for loading/unloading, waiting/holding areas and means of communication for delivery vehicles if space is unavailable within or near the site;
- viii. Locations for storage of plant/waste/construction materials;
- ix. Arrangements for the turning of vehicles, to be within the site unless completely unavoidable;
- x. Arrangements to receive abnormal loads or unusually large vehicles;
- xi. Swept paths showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available;
- xii. Any necessary temporary traffic management measures;
- xiii. Measures to protect vulnerable road users (cyclists and pedestrians);
- xiv. Arrangements for temporary facilities for any bus stops or routes;
- xv. Method of preventing mud being carried onto the highway;
- xvi. Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

The plan shall be adhered to throughout the construction period

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development

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

5. All hard and soft landscape works shall be carried out in accordance with details indicated on the approved plans. The trees are to be planted into properly prepared planting pits and in accordance with BS8545:2014 'Trees: from nursery to independence in the landscape: Recommendations' with specific reference to the procurement of tree stock, species selection, aftercare and maintenance. Any trees 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 establishment and maintenance of a reasonable standard of landscape and mitigate for the loss of existing trees.

6. The external materials shall be as indicated on the approved drawings and within the submitted planning statement or in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

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

7. The submitted travel plan shall be implemented within one month of the first opening of the development. The travel plan measures shall relate to the entirety of the development, as appropriate.

Reason: To promote sustainable modes of transport in line with both local and national objectives.

8. The submitted Litter Management Plan shall be implemented on the first opening of the proposed development and adhered to throughout the lifetime of the development.

Reason: To ensure the provision of adequate facilities for the disposal of waste and to reduce the overall environmental impact on the surrounding highway network.



Committee and Date
 Northern Planning Committee
 24th May 2022

Item
7
 Public

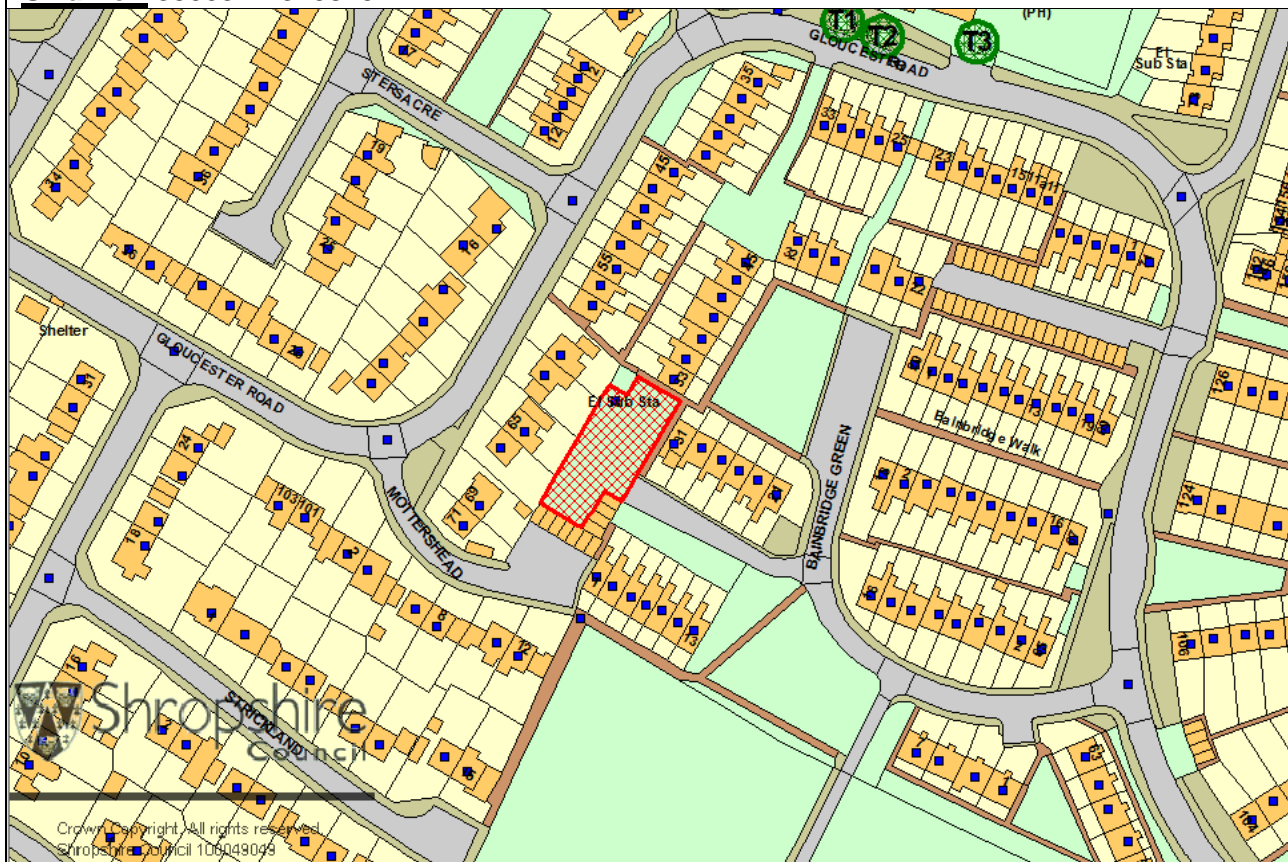
Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 22/01506/FUL	Parish:	Shrewsbury Town Council
Proposal: Installation of a telecoms shelter, security fencing and associated works		
Site Address: Proposed Telecoms Shelter on Car Park at Bainbridge Green, Shrewsbury, Shropshire.		
Applicant: VX Fibre		
Case Officer: Jane Raymond	email: jane.raymond@shropshire.gov.uk	

Grid Ref: 350032 - 315875



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Recommendation: Grant Permission subject to the conditions set out in Appendix 1 and the informative advice in paragraph 2.2.

REPORT

1.0 THE PROPOSAL

- 1.1 This application is for the installation of a telecoms shelter, security fencing and associated works
- 1.2 The application form indicates that the shelter will allow up to 8000 homes in the surrounding area to gain access to fibre to the premises with speeds of 1Gbps.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a parking space within a car park at the end of Bainbridge Green that is situated within a residential area to the north of Shrewsbury. The car park provides parking spaces for approximately 24 cars plus 4 garages. The application site occupies a parking space immediately adjacent an electricity sub-station situated in the north west corner of the car park.
- 2.2 The site is owned by Shropshire Council and should planning permission be granted the following informative advice is recommended to be included on the decision notice:

INFORMATIVE ADVICE

The application site is owned by Shropshire Council and although the required Certificate B has been completed and notice served on the landowner this planning permission granted by Shropshire Council as the Local Planning Authority does not give the permission of Shropshire Council as landowner to implement the development on Shropshire Council owned land.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposal does not comply with the Council's scheme of delegation as set out in Part 8 of the Shropshire Council Constitution as the application relates to land owned by the Council for development that is not in line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

- 4.2 **WSP on behalf of SC Drainage:** Provides informative advice.

4.2 Public Comments

- 4.2.1 **Shrewsbury Town Council:** The Town Council raise no objections to this application.

5.0 THE MAIN ISSUES

Principle of development
Visual impact

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Part 10 of the National Planning Policy Framework (NPPF) seeks to support advanced, high quality and reliable communications infrastructure and sees it as being essential for economic growth and social well-being. It advocates planning policies and decisions that support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.

6.1.2 This is supported by local plan policy through Core Strategy Policies CS7 (Communications and Transport) and CS8 (Facilities, Services and Infrastructure Provision) and Site Allocations and Management of Development (SAMDev) Policy MD8 (Infrastructure Provision), which seek to improve, maintain and promote communications infrastructure.

6.1.3 The application is to house telecommunications equipment that would support the provision of fibre broadband to more households improving internet speeds and is therefore considered acceptable in principle with regards to these policies.

6.2 Visual Impact

6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the natural, built and historic environment and be appropriate in scale, density, pattern and design taking into account the local context and character. CS6 also seeks to ensure that all development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity.

6.2.2 The proposed shelter will have a pitched roof and the external dimensions of the shelter are 4.76m long x 2.36m wide and 2.727m high at the apex. A galvanised steel, palisade 1.8m high fence is proposed to be installed around the shelter for security. Both the shelter and fencing are proposed to be in a shade of PPC Green – RAL 6005.

6.2.3 The proposed building is relatively small and will be located in the north west corner of the car park occupying one car parking space adjacent to an electricity sub-station that is also surrounded by metal palisade fencing. In this location it is considered that it would have no adverse visual impact on the character and appearance of the locality.

6.3 Other matters

6.3.1 The proposal would result in the loss of one parking space and at the time of the

site visit and looking at Google map images the car park is underutilized and not in significant use. The loss of one car parking space would not result in a significant loss of parking spaces available to residents in the locality and therefore would not result in vehicles overspilling into the surrounding streets.

6.3.2 The submitted information indicates the following: *'The shelter is to contain active telecoms equipment, and will therefore require power, and contain backup batteries. It will be earthed, and secured, and will only require sporadic access. It will not require plumbing, nor generate waste, as it will not be in constant use' and 'it is ventilated and emits sound in the region of a quiet whisper'.*

6.3.3 Having regard to the proposed location within a car park surrounded by brick walls (with close boarded fencing above) adjacent to an electricity sub-station it is considered that the proposal would not result in any significant adverse impact on residential amenity with regards to noise and disturbance.

7.0 CONCLUSION

7.1 It is considered that the siting of the proposed building to house telecommunications equipment is acceptable in principle and would support the provision of communications infrastructure in accordance with Local Plan policies CS7, CS8 and MD8. The proposal would have no significant adverse impact on the character and appearance of the locality or residential amenity, and the loss of one parking space is acceptable as these parking spaces are not in demand, and the proposal is therefore considered to accord with Local Plan policies CS6 and MD2.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against

non-determination for application for which costs can also be awarded.

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and SAMDev Policies: CS6, CS7, CS8, MD2 and MD8

11. Additional Information

List of Background Papers

22/01506/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=R9GVGFTDMM300>

Cabinet Member (Portfolio Holder): Councillor Ed Potter

Local Member: Cllr Jeff Anderson

Appendices

APPENDIX 1 – Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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



<u>Committee and Date</u>
Northern Planning Committee
24 th May 2022

<u>Item</u>
8
Public

Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

SCHEDULE OF APPEALS AS AT COMMITTEE 24th May 2022

Appeals Lodged

LPA reference	21/02618/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Messers M and T Shuker
Proposal	Erection of 2No self-build dwellings with the formation of vehicular accesses (revised scheme)
Location	Proposed Residential Development Land South Of Chapel Lane Knockin Heath Shropshire
Date of appeal	06.05.22
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/04897/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs R and E Hamlett
Proposal	Proposed change of use of land to allow siting of 2no. holiday cabins (Shepherds Huts) - Resubmission
Location	Land East Of Mill Lane Brownhill Ruyton Xi Towns
Date of appeal	10.05.22
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/05619/VAR
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr T Edwards
Proposal	Variation of condition 2 (approved plans) attached to planning permission 15/03747/FUL dated 6th June 2016 to amend the design of the consented extension
Location	Laburnum Barn
Date of appeal	01.02.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals Determined

LPA reference	20/03330/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	D and D Gulligan
Proposal	Change of use of land to form holiday caravan park
Location	Link Holiday Lodges The Links Hinstock
Date of appeal	19.04.2021
Appeal method	Written Representations
Date site visit	17.02.2022
Date of appeal decision	11.04.2022
Costs awarded	No
Appeal decision	ALLOWED

LPA reference	21/01301/PMBPA
Appeal against	Prior Approval of Permitted Development
Committee or Del. Decision	Delegated
Appellant	DM and KJ Morris
Proposal	Application for Prior Approval under Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the conversion of agricultural building to a dwelling
Location	Upper Fenemere Farm Myddlewood
Date of appeal	27.10.2021
Appeal method	Written Representation
Date site visit	22.03.2022
Date of appeal decision	06.05.2022
Costs awarded	
Appeal decision	ALLOWED

LPA reference	19/03152/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr John Price
Proposal	Use of land for the stationing of caravans for residential purposes for 1No. gypsy pitch and part retrospective installation of hard standing and septic tank
Location	Land East Of Beamish House Beamish Lane Albrighton Shropshire
Date of appeal	26.11.2020
Appeal method	Hearing
Date site visit	
Date of appeal decision	10.05.2022
Costs awarded	
Appeal decision	DISMISSED

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Appeal Decision

Site visit made on 17 February 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2022

Appeal Ref: APP/L3245/W/21/3273383

Land adjacent Links Green, Hinstock Church to Ellerton Junction, Church Street, Hinstock TF9 2NH

- 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 Dan and David Culligan against the decision of Shropshire Council.
 - The application Ref 20/03330/FUL, dated 17 August 2020, was refused by notice dated 24 February 2021.
 - The development proposed is for 10 static caravans with layout, modified road access, amenity land, play area and office building.
-

Decision

1. The appeal is allowed and planning permission is granted for 10 static caravans with layout, modified road access, amenity land, play area and office building at Land adjacent Links Green, Hinstock Church to Ellerton Junction, Church Street, Hinstock TF9 2NH in accordance with the terms of the application Ref 20/03330/FUL, dated 17 August 2020 and subject to the Schedule of Conditions attached to this decision.

Application for costs

2. An application for costs was made by Dan and David Culligan against Shropshire Council. This application is the subject of a separate Decision.

Preliminary Matter

3. Although the application was made in the name of Dan and David Gulligan, the appellants' recent submissions refer to Dan and David Culligan. The appellants' agent has confirmed that this was due to an administrative error and that the latter version is correct, this is reflected in my decision.

Main Issues

4. The main issues are: i) the effect of the proposal on the character and appearance of the area; and, ii) the effect of the proposal on highway safety.

Reasons

Character and appearance

5. The appeal site ('the site') is located in the countryside and comprises two fields of mainly semi-improved grassland pasture which together occupy a

- broadly triangular plot. The gated access to the site is off The Yelves and is just north of the junction with Ellerton Road.
6. The site is bound by hedgerows with semi mature trees along its north-eastern and southern boundaries and a wooden fence along the western boundary. A hedgerow divides the two fields running from the southern boundary to the north-eastern boundary. The site is surrounded by fields with the exception of small clusters of residential development to the west, east and north.
 7. Part of the site has planning permission for the siting of five log cabins to provide holiday accommodation. Phase 1 of that permission has been implemented with the siting of two log cabins. Therefore, the broad location of the appeal site has already been accepted for holiday accommodation and can support a further three log cabins under the extant planning permission.
 8. The proposal is for the removal of the two log cabins and the siting of 10 static caravans, an office building, associated infrastructure and planting.
 9. The site is not part of any formal landscape designations. However, at a local level it is within the Sandstone Estates landscape type and because it comprises two fields defined by hedgerows, it exhibits features characteristic of this landscape type. Gaps in the site's boundaries adjacent with the highway network allow views through the site from the public realm. The installed log cabins are close to the eastern boundary. Therefore, the site supports the open, rural character of the area.
 10. The proposal would result in the loss of a single field of semi-improved grassland and its replacement with static caravans. Despite this, the 'Illustrative Site Layout' shows that part of this field would be a grassed communal amenity area incorporating some semi-natural tree planting, which overtime would develop a dense landscape buffer along the boundaries of this part of the site. Also, new tree and hedge planting is proposed along the western boundary of this field and site.
 11. Therefore, the loss of the semi-improved grassland would be localised to the site and its immediate context. Any 'slight negative' impact on the landscape character as a consequence of the proposal in a western direction would be limited to adjacent fields and as the new planting matures this would create a natural field boundary which would enhance the landscape characteristic and visual quality of the site and area.
 12. A modest section of the existing internal hedge is to be removed to provide access to the western part of the site, the visual effects of this would be negligible because of its extent and location. However, a more substantial section of hedgerow and a single Ash tree on the site boundary with The Yelves, to accommodate the improvements to the site's access are to be removed. Nonetheless, the 'Illustrative site layout' shows new woodland and hedge planting near the access to compensate for this.
 13. The static caravans would be located along the southern and western boundaries of the site and arranged off a single driveway. The layout and orientation of the plots for these would facilitate generous spacing and visual gaps through the site. This arrangement would also allow for planting between the plots and along the boundaries of the site. The office building is of a modest scale and would occupy a similar location to the existing log cabins.

- The appellants are also agreeable to a condition controlling the external colour of the static caravans. An appropriate colour would enable these to better assimilate with the landscaping.
14. The density of the proposed scheme is similar to that which has already been approved on part of the site. Also, a large part of the site incorporating the play and communal amenity areas would be free of any significant development and landscaped. Together, the extent of the new development, the layout of this and landscaping would ensure that overtime, the site would retain a largely open and verdant character and would continue to complement the rural character and appearance of the area.
 15. Based on my visit and the appellants' Landscape and Visual Appraisal Report (LVAR) because of the vegetation around the boundary of the site, which is largely to be retained and intervening landscaping, when viewed from the wider landscape, the extent to which the site is visible is limited to localised views.
 16. As such, only glimpsed and transient views of the proposed development from the adjacent highway network would be available. From along here there would be a 'slight negative' visual effect on completion of the development as a result of the removal of some existing landscaping near the access. Nevertheless, overtime the new hedgerow and woodland planting would restore and enhance these views.
 17. Due to intervening boundary treatments and the degree of separation, only glimpsed, oblique views of the site from upper floor windows over mature hedgerows on the site boundaries would be available from dwellings close to the site on Ellerton Road and The Yelves. Detached properties to the north of the site would have a more distant view of the site, and the location of the communal amenity area and associated semi natural woodland planting adjacent to the north-east boundary would reduce the visual effects of the proposed static caravans. Therefore, the visual effect of the proposed development on the residents of these properties would be slight at completion and would reduce as the new landscaping matures.
 18. For the above reasons, whilst the proposed development would change the character of the site and to a lesser extent the area, overtime the landscape and visual qualities of the site and area would be enhanced, along with the biodiversity of the site. Nonetheless, although proportional, the landscaping scheme is illustrative. Therefore, it important that the detailed design, phasing, implementation and maintenance of the landscaping of the site is undertaken to the highest standards, which could be secured by a robust condition if the appeal were to succeed.
 19. Together, the siting, landscaping and provision of communal areas would contribute to high-quality visitor accommodation which has already been found to be acceptable in this location.
 20. Consequently, the proposal is consistent with Policy CS16 of the Shropshire Local Development Framework: Adopted Core Strategy. March 2011 ('CS'). which aims to deliver high quality, sustainable tourism and leisure development which enhances the vital role that these sectors play for the local economy, benefits local communities and visitors and is sensitive to Shropshire's intrinsic natural qualities. The proposal also accords with Policy CS6 of the CS which

amongst other things requires that proposals are appropriate in scale and density with appropriate landscaping taking into account the local context and character, and those features which contribute to local character.

Highway Safety

21. The proposal would utilise the existing access to the appeal site but with some improvements to its visibility splays. Though this access is close to a junction, this is located on a tight bend. Therefore, vehicles approaching or turning out of this junction do so at relatively low speeds.
22. Visitors using the site would primarily arrive and leave via the Class III road which runs along the southern boundary of the site, this is generally of a single vehicle width and incorporates some bends with reduced visibility and limited passing places. However, this is as an existing arrangement and on the evidence before me, this road is used by local residents for accessing the facilities within Hinstock and the main highway network. This includes use by pedestrians and cyclists. Notwithstanding this, the appellant's Transport Statement ('TS') indicates that there have been no injury car accidents on the local highway network in the vicinity of the site or between the site and Hinstock.
23. Using the Trip Rate Information Computer System database, the TS predicts that the proposal would generate a total of 25 trips during a day and would therefore not be a significant generator of traffic. The TS also advises that because the proposal is for holiday accommodation, users would avoid peak morning and evening weekday commuting periods and therefore tend not to impact the local highway at its busiest periods. The proposal also includes a bicycle storage facility to encourage use of bicycles and provide an alternative to private car use for local and short journeys.
24. Drawing on the above reasons and in the absence of any technical evidence to the contrary, the increase in traffic arising from the proposal would have a negligible effect on the operation of the local highway network. Therefore, the proposal accords with Policy CS6 of the CS which amongst other things requires that all developments are safe and accessible.

Other Matters

25. The proposal would generate additional activity and noise and I have considered this in light of the representations made during the application and the additional evidence submitted during the appeal, including the use of a nearby property for home schooling. However, as I have already found, the traffic movements associated with the proposal would be modest. The proposed play area is relatively small and the communal amenity area would be located on the furthest part of the site from the nearest dwelling and its garden. Moreover, the recreational activities arising from this type of use would be similar to those associated with outdoor areas for dwellings.
26. Therefore, the activity associated with the proposal would not unacceptably affect the living conditions of neighbours. In reaching this conclusion, I am mindful that part of the appeal site already has consent for use as holiday accommodation. Consequently, the degree of interference that would be caused would be insufficient to give rise to a violation of rights under Human Rights Act 1998, Article 8 and Article 1 of the First Protocol.

27. Along with the above matters, third parties have raised concerns about matters relating to the effects of the proposal on horses in the adjoining field, along with issues in respect of waste management, drainage and flooding. These were addressed in the Council's report to the Northern Planning Committee, and I have also considered these and have no reason to disagree with the Council's findings.
28. I have determined this appeal as holiday accommodation. Therefore, concerns about this being used for permanent residential use are not relevant to this appeal and any such proposal would be the subject of a separate application.
29. A planning application ref 19/03205/FUL for the siting of 10 static caravans was refused by the Council and a subsequent appeal was also dismissed under appeal ref APP/L3245/W/19/3243795. On the evidence before me, that scheme was for a smaller site and a different layout. As such, that proposal is not directly comparable and therefore I attach limited weight to it. In any event, I have determined the proposal before me on its planning merits.
30. The appellant has advised that the caravans can be disabled access compliant by means of a ramp and such details could be secured by way of a condition.
31. I have also had regard to other policies of the development plan which have been referred to me by third parties and where the details of these are before me. Nonetheless, these do not alter my findings on the main issues.

Conditions

32. In imposing conditions, I have had regard to the National Planning Policy Framework and the Planning Practice Guidance. I have imposed the standard timescale condition for the implementation of the permission. A condition specifying the relevant plans and documents defines the permission and provides certainty.
33. I have also imposed conditions relating to the site access, visibility splays, the internal driveway, parking and turning areas. These, along with a requirement that no access gates or other means of closure are located within 12m of the highway boundary are necessary to ensure accessibility and safety of highway users.
34. Conditions requiring details of external materials, the retention of existing landscaping and details of proposed landscaping are necessary to ensure the satisfactory appearance of the development, the character and appearance of the area and securing biodiversity enhancements.
35. I have also imposed a condition requiring the removal of the two existing log cabins, as my determination of the appeal is based on the proposed layout and landscaping arrangement.
36. A condition requiring the specification, design and access arrangements for the static caravans is necessary in the interests of the appearance of the development and area and to ensure that the static caravans are accessible for all.
37. Conditions imposed requiring that the approved static caravans are as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) and that the site accommodates no more than 10

static caravans in accordance with the approved layout, which are only occupied as holiday accommodation are reasonable and necessary to ensure that the use of the site is consistent with the proposal and development plan.

38. The Council has suggested a condition requiring a further badger inspection. However, in light of the recommendations set out under paragraph 6.4 of the Phase 1 Habitat Survey by Astute Ecology (Report Reference: AE19.152) such a requirement is not necessary or proportionate. Accordingly, I have imposed a condition requiring that the development is undertaken in accordance with the recommendations, mitigation and enhancements set out in that report. This, along with conditions relating to the provision of bird and bat boxes and the details of any external lighting are necessary in the interests of safeguarding species and enhancing biodiversity. The external lighting condition is also required in the interests of the amenities of neighbours and the character and appearance of the area.
39. Conditions 3 -10 (inclusive) which prevent the approved use from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions in order to have their intended effect. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusion

40. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal
INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall be carried out in accordance with the following approved plans and documents: Site Location Plan – Drawing HN/2/20p, Block Plan 1:1250, Illustrative Site layout Ref: 214.3.01, Visibility Plan Drawing No. 2019/1919/001 in Appendix 4 of the Transport Statement Report and Phase 1 Habitat Survey by Astute Ecology (Report Reference: AE19.152).
3. No development shall take place (including, ground works and vegetation clearance) until a landscaping plan and a timetable for its implementation has been submitted to and approved in writing by the local planning authority. The plan shall include: a) Planting plans, creation of wildlife habitats and features and ecological enhancements; b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment); c) Access layout and visibility splay in line with Highways requirements in order to demonstrate their compatibility with the retention of existing trees and hedges, or measures to replant or translocate hedges behind the visibility splay if required; d) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate; e) Native species of local provenance (Shropshire or surrounding counties); f) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works; g) details for the management and maintenance of the retained and proposed landscaping; h) Phasing and implementation timetables. Thereafter, the landscaping plan shall be carried out as approved in accordance with the approved timetables. Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees of the same size and species.
4. No development shall take place (including, ground works and vegetation clearance) until a timetable for the removal of the two log cabins on the site has been submitted to and approved in writing by the local planning authority. Thereafter, the removal of the existing log cabins shall be undertaken in accordance with the approved timetable.
5. Prior to any above ground works commencing, details of all external materials, surfaces and finishes used in the construction of the approved development shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details.
6. Prior to the first occupation of any static caravan in accordance with this approval, the visibility splays shown on Visibility Plan Drawing No. 2019/1919/001 in Appendix 4 of the Transport Statement Report, shall be provided. Thereafter, the visibility splays shall be maintained at all times free from any obstruction in accordance with Visibility Plan Drawing No. 2019/1919/001.

7. Prior to the first occupation of any static caravan in accordance with this approval, the access, internal driveway, parking and turning areas shall be completed and laid out in accordance with approved Block Plan-1:250. Thereafter, the internal driveway, parking and turning areas shall be maintained at all times for those purposes.
8. Prior to the first occupation of any static caravan in accordance with this approval, the access to the site shall be constructed to specifications agreed in writing with the local planning authority.
9. Prior to the first occupation of any static caravan in accordance with this approval the design, external colour and access arrangements for the static caravans shall be submitted to and agreed in writing by the local planning authority. Thereafter, the static caravans shall be sited in accordance with the approved details.
10. Prior to the first occupation of any static caravan in accordance with this approval, the following shall be erected on the site: A minimum of 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species and a minimum of 4 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design) and/or small birds (32mm hole, standard design). These shall be sited in positions that have first been submitted to and approved in writing by the local planning authority.
11. There shall be no more than 10 static caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) on the site at any time. Any caravans on the site shall be sited in accordance with approved Block Plan 1:250.
12. The static caravans 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 lodges on the site, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority.
13. Any external lighting shall be in a location and of a design that has first been submitted to and approved in writing by the local planning authority.
14. The development hereby approved shall be carried out in accordance with the recommendations, mitigation and enhancements as set out under section 6 of the Phase 1 Habitat Survey by Astute Ecology (Report Reference: AE19.152).
15. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification, no access gates or other means of closure shall be erected within 12.0 metres of the highway boundary.



Costs Decision

Site visit made on 17 February 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2022

Costs application in relation to Appeal Ref: APP/L3245/W/21/3273383 Land adjacent Links Green, Hinstock Church to Ellerton Junction, Church Street, Hinstock TF9 2NH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Dan and David Culligan for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for 10 static caravans with layout, modified road access, amenity land, play area and office building.
-

Decision

1. The application for costs is refused.

Reasons

2. The Planning Practice Guidance ('PPG') advises that, irrespective of the outcome of the appeal, costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG states that the circumstances when the behaviour of a local planning authority ('LPA') might lead to an award of costs can either be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal.
4. The applicants' application for costs is based on the alleged unreasonable behaviour of the LPA and wasted expense, for the reasons considered below.
5. The PPG provides examples as to when a substantive award of costs may be made against a LPA. These include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and failure to produce evidence to substantiate each reason for refusal on appeal.
6. The applicants' application was considered at the Northern Planning Committee on 9 February 2021. Although the officer recommendation was to approve the application, subject to conditions, Members refused the application on two grounds, as set out in the LPAs decision dated 24 February 2021.
7. I have identified that the two main issues arising from that decision as the effects of the proposal on highway safety and the character and appearance of the area.

8. Notwithstanding the advice of the LPAs officers and consultees, Planning Committees are not bound by a professional recommendation and are entitled to depart from this based on the facts of the case and planning judgment. However, this is not an unqualified right, as members of a planning committee must be able to properly substantiate any concerns identified.
9. In respect of highway safety, the planning application was supported by a Transport Statement prepared by Modal Highway Consultants Limited. This found that the proposal would have a negligible impact on the local highway network.
10. WSP UK Ltd undertook a technical appraisal of the planning application and the supporting information on behalf of the Local Highway Authority, and in their response dated 15 September 2020, advised that there was no objection – to the proposal subject to the development being constructed in accordance with the approved details and conditions.
11. At appeal, although the LPA has identified that the proposal would result in an increase in traffic and highlighted deficiencies in the existing highway network, there is no substantive technical evidence to support its allegation that the proposal would lead to highway safety issues, sufficient to warrant refusal of the planning application. Therefore, I consider that the LPAs stance in respect of this particular issue to be unreasonable.
12. Turning to the second issue, this alleges that the proposed development would have an adverse visual impact on the landscape and this will not be satisfactorily mitigated by the landscaping proposed.
13. To show that the proposal would be acceptable in terms of its landscape and visual effects, the application was supported by a Landscape and Visual Appraisal Report (LVAR).
14. The LPA also commissioned an independent review of the LVAR which was conducted by ESP. Notwithstanding that the LVAR was considered to be a proportionate, clear and evidence-based manner in compliance with the relevant guidance. According to the LPAs report to the Northern Planning Committee, the review undertaken by ESP found that the effect of the proposal from the view northwest towards the site from Ellerton Road would be 'slight negative' on completion of the development as this would involve part removal of the hedgerow to provide the improved visibility. Further, that the development would also initially have a 'slight negative' impact on the landscape character and its surroundings mainly in a western direction, although the new planting would result in a long term 'positive' effect on the landscape character.
15. As already stated, committees are not bound by a professional recommendation and are entitled to depart from this based on the facts of the case and planning judgment.
16. In particular, and notwithstanding the specific advice from landscape specialists, the members' consideration of the effects of the proposed development on character and appearance involves some subjective analysis having regard to the context of the site, the proposal and the development plan and any other material considerations. Some members would have local knowledge of the site and area.

17. Also, and as already stated members came to a view that the alleged adverse visual impact on the landscape would not be satisfactorily mitigated by the proposed landscaping. This requires a degree of subjective planning judgement, particularly given that the landscape scheme is illustrative.
18. The LPAs reason for refusal refers to Policies CS6 and CS16 of the Shropshire Local Development Framework: Adopted Core Strategy. March 2011. Amongst other things, these policies seek to deliver development which is sensitive to Shropshire's intrinsic natural qualities with appropriate landscaping taking into account the local context and character.
19. Therefore, even though in allowing the appeal I have found in favour of the applicants' I am satisfied that the LPAs decision, insofar as this relates to the issue of character and appearance is complete, precise, specific and relevant to the proposal. Furthermore, the LPAs conclusions about the effects of the proposal are supported by some analysis set out in the appeal statement. Accordingly, in my view the LPAs stance in respect of this issue does not amount to unreasonable behaviour.
20. Nonetheless, the LPA acted unreasonably with regard to the refusing the application on grounds of highway safety. However, to make an award of costs I need to be satisfied that this matter resulted in unnecessary or wasted expense in the appeal process.
21. Irrespective of the stance taken by the LPA in respect of highway safety, its reason for refusal also related to the effects of the proposal on the character and appearance of the area. Therefore, while I cannot be certain, it seems likely that even if the LPA had considered the proposal to be acceptable in terms of highway safety, this would not have made any difference to the Committee's decision to refuse the planning application. Therefore, an appeal could not have been avoided. Also, the applicants appeal evidence in dealing with the issue of highway safety largely refers to the submissions made as part of the planning application and do not rely on any substantive new evidence.
22. Given all of the foregoing, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a full award of costs is not justified.

M Aqbal
INSPECTOR

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Appeal Decision

Site visit made on 22 March 2022

by **Rachel Hall BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 May 2022

Appeal Ref: APP/L3245/W/21/3285667

Upper Fenemere Farm, Myddlewood, Myddle, Shrewsbury SY4 3RY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr D Morris of D M & K J Morris against the decision of Shropshire Council.
 - The application Ref 21/01301/PMBPA, dated 10 March 2021, was refused by notice dated 28 April 2021.
 - The development proposed is the conversion of an agricultural building to a dwelling.
-

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for the conversion of an agricultural building to a dwelling at Upper Fenemere Farm, Myddlewood, Myddle, Shrewsbury SY4 3RY in accordance with the details submitted pursuant to Schedule 2, Part 3, Class Q, Paragraph Q.2(1) of the GPDO through application Ref 21/01301/PMBPA, dated 10 March 2021. The approval is subject to the conditions in the attached schedule.

Background and Main Issues

2. The description above is taken from the Council's decision notice as a description of development was not specified on the original planning application form.
3. Schedule 2, Part 3, Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) states that the local planning authority may refuse a prior approval application where the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant the prior approval.
4. The proposal relates to Schedule 2, Part 3, Classes Q(a) and (b) of the GPDO, which enable the change of use and conversion of agricultural buildings to dwellinghouses. That is subject to certain limitations, paragraph Q.1, and conditions, paragraph Q.2.
5. Under paragraph Q.1(i) of the GPDO, development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or external walls, or water, drainage,

electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The Council considers that insufficient evidence has been provided to show that the building works required would fall within that definition.

6. Therefore, the first main issue is whether it has been demonstrated that the building operations proposed would amount to installation or replacement of elements of the buildings beyond that which is reasonably necessary for the building to function as a house, and consequently whether the limitation in paragraph Q.1(i) of the GPDO is met.
7. The Council's decision notice also referred to paragraph Q.2.(1)(f) of the GPDO relating to the proposal's design and external appearance. As such, the second main issue is whether the proposal would be acceptable with respect to design and external appearance, and therefore whether condition Q.2.(1)(f) has been met.

Reasons

Whether it has been demonstrated that the building operations are reasonably necessary

8. The Planning Practice Guidance (the PPG) confirms that the right under Class Q permits building operations which are reasonably necessary to convert the building, which may include those which would affect its external appearance and would otherwise require planning permission. It clarifies that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use.
9. Therefore, it is only where the existing building is suitable for conversion to residential use that the building would be considered to have the permitted development right. The PPG also references that it may be appropriate to undertake internal structural works, including to allow for a floor, insertion of upper floors or internal walls. Whether or not the proposed works go beyond the scope of conversion is a matter of fact and degree and requires an element of judgement.
10. The existing barn is enclosed on three sides. On these elevations, the bottom section of the enclosure comprises concrete block walls which would be retained. These would be rendered and painted, with new vertical wooden cladding above to replace existing, and aluminium windows inserted. The replacement vertical cladding would be fixed to a new timber frame that would be fixed to the lower level block work and steel frame. Insulation would be added to the inside of these walls.
11. On the fourth elevation that is currently open save for metal gates, a cavity wall would be constructed on new foundations laid between the existing pad foundations of the steel stanchions. This wall would also be finished in painted render with vertical cedar cladding above, and new windows and a door inserted. The existing corrugated roof would be replaced with metal roofing sheets.
12. During my visit the building appeared to be in good condition with no evident structural issues. A Structural Appraisal (the SA) by Lewis Howdle Limited (November 2019) confirms that the existing steel structure is considered to be

in good condition and would be retained. The SA appears to have been produced by a suitably qualified authority. No robust evidence is before me to indicate that the SA or accompanying calculations on the load bearing capacity of the steel frame are unreliable in any significant respect.

13. Although some new foundations are required to support the new cavity wall, the proposals would otherwise make use of the existing steel structure of the barn. Replacement of elements such as the vertical cladding and roof are required to make the building habitable. Taken as a whole, I am satisfied that the works amount to conversion, the barn already being enclosed on three sides, and are not so significant as to amount to rebuilding.
14. Accordingly, I am satisfied in this instance that sufficient evidence has been provided to demonstrate that the proposed works would be reasonably necessary for the building to function as a house, and consequently the limitation in paragraph Q.1(i) of the GPDO would be met.

Whether acceptable with respect to design and external appearance

15. The appeal barn appears as one of a complex of buildings that appear traditionally associated with farming, some of which have been converted for residential use. Brick built stables adjoin the existing barn on one side. Adjacent are brick built buildings in residential use, known as The Stables. A similar style of single storey building to The Stables is located opposite the appeal building, with a pitched corrugated roof and vertical timber cladding at one end. Beyond this is a larger scale barn with metal gates, timber cladding and corrugated roof, with further stables beyond that. Consequently, there is a mixed palette of materials and building styles in the vicinity of the appeal site.
16. The proposed design retains the form of the existing building, with the dual pitched roof and the long façade divided into five bays. The proposed windows on the elevation facing into the appeal site are relatively small scale. Whilst somewhat domestic in scale and inserted over the join between render and vertical cladding, these would nonetheless help to retain the barn-like appearance of the building, keeping interruptions in that façade to a minimum.
17. Larger scale windows are proposed on the two elevations facing out of the site into open countryside. The floor to ceiling windows within one of the bays on the southern elevation would be reminiscent of large openings typical of agricultural barns. The extent to which these larger outward facing windows would be perceptible from the surrounding countryside would in any event be relatively limited.
18. The proposed vertical cladding would be reminiscent of the timber cladding on the existing barn and not out of keeping with other buildings in this rural setting. Some boundary treatments in the immediate vicinity also include vertical timber panels. In the particular circumstances of this site, the use of painted render at the lower level would not appear out of place. I note that painted render is visible on other residential buildings in the vicinity.
19. For these reasons, I conclude that the proposal would be acceptable with respect to design and external appearance. I therefore conclude that condition Q.2.(1)(f) of the GPDO would be met.

Conditions

20. For the avoidance of doubt, I have imposed the condition specified under Schedule 2, Part 3, paragraph Q.2(3) of the GPDO which requires that proposals are completed within three years of the date of this prior approval decision. Prior approval may be granted unconditionally or subject to reasonably related conditions. In that context it is necessary to impose a condition requiring adherence to the supporting plans for certainty, and to ensure compliance with the relevant requirements of Class Q.
21. A condition on avoidance of nesting birds is not necessary in light of the parallel provisions of section 1 of the Wildlife and Countryside Act 1981 on the protection of wild birds, their nests and eggs. I have imposed a condition on construction phase measures for wildlife protection. This broadly aligns with recommendations in the appellant's Great Crested Newt habitat suitability assessment and mitigation strategy (Churton Ecology, 10 March 2021), and is necessary in light of the duty under section 40 of the Natural Environment and Rural Communities Act 2006 to have regard for biodiversity and protected species. A condition requiring the provision of bat and bird boxes and external lighting is similarly necessary in the interests of biodiversity and protected species. A condition requiring approval of a foul and surface water drainage scheme is necessary to ensure suitable drainage and pollution prevention.

Conclusion

22. For the reasons set out above, I conclude that the appeal is allowed and prior approval is granted.

Rachel Hall

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted must be completed within a period of three years from this decision in accordance with Schedule 2, Part 3, paragraph Q.2(3) of the GPDO.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 46816/21/03; 46816/21/05; 16150/01;
- 3) No conversion, renovation or demolition works hereby permitted shall take place during the bird nesting season of 1 March to 31 August in any year, unless a survey of the building for nesting birds has first been undertaken. Only if that survey finds that there are no active nests within the building, should the approved development works proceed.
- 4) All building materials, rubble, bricks and soil must be stored off the ground (for example on pallets, in skips or in other suitable containers) to prevent their use as refuges by wildlife. Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped. Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present. If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England should be contacted for advice. The local planning authority should also be informed. If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society.
- 5) Prior to first occupation of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the local planning authority. The following boxes shall be erected on the site:
 - A minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species.
 - A minimum of 1 artificial bird nest, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups).

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

- 6) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out in accordance with the approved details and thereafter maintained and retained for the lifetime of the development.
- 7) The dwelling hereby approved shall not be occupied until the foul and surface water drainage works have been implemented in accordance with details that have first been submitted to and approved in writing by the local planning authority. The approved drainage works shall thereafter be maintained for the lifetime of the development.



Appeal Decision

Hearing held on 8 March 2022

Site visit made on 8 March 2022

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th May 2022

Appeal Ref: APP/L3245/W/20/3253805

Land off Beamish Lane, Albrighton, Shropshire WV7 3AG (382900 304267)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Price against the decision of Shropshire Council.
 - The application Ref 19/03152/FUL, dated 12 July 2019, was refused by notice dated 6 December 2019.
 - The development proposed is the use of land for the stationing of caravans for residential purposes.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has confirmed that the intended occupiers of the site are Romany Gypsies. Both parties acknowledge that the occupiers of the site would meet the Planning policy for traveller sites (PPTS) Glossary definition of "gypsies and travellers", and that the PPTS is relevant policy in this case.

Main Issues

3. The appeal site is located within the countryside, outside of any defined settlement boundary and within the West Midlands Green Belt.
4. There is no dispute that in accordance with Policy E of the PPTS, the development is of a form which constitutes inappropriate development in the Green Belt. Given the evidence before me in respect of the location of the site and the type of development, I also conclude that the appeal relates to inappropriate development in the Green Belt as described in Chapter 13 of the National Planning Policy Framework (Framework).
5. Taking into account the above, the main issues in this case are:
 - the effect of the proposal on the openness of the Green Belt and its purposes;
 - whether the appeal site is suitably located for the proposal having regard to its relationship to services and facilities and the nearest settlement, and
 - whether the harm to the Green Belt by reason of inappropriateness, loss of openness and conflict with the purposes of including land within it, and any other harm, is clearly outweighed by other considerations so as to amount to

the very special circumstances necessary to justify the development in the Green Belt.

Reasons

Planning Policy Context

6. The appellant submits that the policies referred to within the Council's decision notice are out of date and that this therefore engages paragraph 11 d) of the Framework. Just because the policies pre-date the Framework or include different criteria to the Framework does not necessarily make them out of date. There is no requirement within national planning policy that requires development plan policies to repeat such policy verbatim. Indeed paragraph 28 of the Framework supports local planning authorities to use non-strategic policies, such as those relied on by the Council, which are detailed for specific areas, neighbourhoods or types of development.
7. Having regard to the Court of Appeal's judgment in *Bramshill v SSHCLG [2021] EWCA Civ 320*, I consider that the most important policies in this case have the same basic objectives as national planning policy including protecting Green Belt land and very strictly limiting new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. They therefore carry full weight in my assessment of this case.

Openness and Purposes of the Green Belt

8. The appeal site is accessed off Beamish Lane through an existing gate and comprises an area of hardstanding. Outside of the appeal site, but within the same ownership is a 'L' shaped stable block. To the south of the appeal site is a large grassed area. There is also a large area of hardstanding to the front of the stables. The boundaries of the appellant's land have a mixture of hedgerow, trees and fencing along them, with the hedgerow along the lane, largely screening the appeal site.
9. The Framework establishes that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.
10. Paragraph 138 of the Framework establishes that Green Belt serves five purposes, including to assist in safeguarding the countryside from encroachment.
11. As set out in the Planning Practice Guidance, case law establishes that openness of the Green Belt is capable of having both spatial and visual aspects. In other words, the visual impact of the development may be relevant, as could its volume. Although the appeal site is well screened by vegetation from the road and the proposal would be glimpsed through the access to the site, an absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result.
12. Moreover, the proposal would introduce caravans and a utility/day room on the site on an area where there is currently no buildings or structures. Openness would therefore be reduced through not only the siting of caravans and the building accommodating the utility/day room, but also through parked vehicles and domestic paraphernalia associated with the proposed residential use. The

reduction in the amount of hardstanding on the site would not suitably mitigate this harm.

13. Although the effect on openness would be localised and limited, and the visual implications would be mitigated over time by the existing and proposed landscaping, openness of the Green Belt would be reduced. Furthermore, by occupying a part of the site where there is currently no caravans or building, the proposed use would encroach into the countryside. This would therefore be contrary to one of the five purposes of the Green Belt. These are matters which I am required to give substantial weight. As such the proposal conflicts with Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy (CS) which seeks to control development in the Green Belt in line with Government Policy and Shropshire Council's Site Allocations and Management of Development Plan (SAMDev) Policy MD6 which requires, amongst other matters that development does not conflict with the purposes of the Green Belt.

Whether the Appeal Site is Suitably Located

14. The appeal site is located outside of the settlement boundary for Albrighton and for planning policy purposes is located within the countryside. It is accessed off Beamish Lane, a narrow road with no pavement or street lighting. The settlement of Albrighton is located on the opposite side of the A41 Albrighton bypass which is a dual carriageway covered by the national speed limit.
15. The appeal site has a small stable block upon it with fields beyond. There are open fields opposite and adjacent with large houses set in extensive grounds and a preparatory school nearby. The character and appearance of this area of countryside is largely open and undeveloped.
16. Within the open countryside the PPTS establishes that new traveller site development should be strictly limited that is away from existing settlements or outside areas allocated in the development plan. In this respect, and whilst accepting that the distance to the edge of the settlement is approximately 750 metres¹, the presence of the bypass, railway line, intervening fields and residential properties set in large grounds, means that the appeal site is visually and physically separate from, and away from the settlement of Albrighton. In the event that the proposed safeguarded land for development beyond 2036 was developed, the appeal site would remain away from the settlement because of the presence of the transport infrastructure.
17. The centre of Albrighton is approximately 2 kilometres away from the appeal site where services and facilities including shops, doctors' surgery and a primary school can be found. Bus and rail services also operate within the town. The closest bus stop to the appeal site is described as being approximately 800 metres distant, located by the Cedars in Albrighton. Reference is made to the railway station being 1.3 kilometres from the appeal site, from where trains to Telford, Shrewsbury, Wolverhampton and Birmingham can be caught. Codsall is approximately 4.7 kilometres distant from the appeal site where there is a railway station, secondary school and other services and facilities. From the appeal site, this settlement can be accessed largely by country lanes.

¹ As measured by the appellant

18. Although 'as the crow flies' the distances to nearby services are not excessive, given the local highway conditions, including having to cross the wide dual carriageway with fast moving traffic to get to Albrighton and the narrow intervening roads with no street lighting or dedicated pedestrian facilities to both settlements, there would be a high probability that the intended future occupiers of the site would drive to these settlements rather than walk or cycle because of the unattractive journey from the site to them. There would thus be a high reliance on a private vehicle to access day-to-day services. For those that did not have access to such a vehicle, the services and facilities in Albrighton and beyond would not be reasonably accessible.
19. I acknowledge that opportunities to maximise sustainable transport solutions varies between urban and rural areas and that the PPTS does not make specific reference requiring that sites should be located where sustainable transport opportunities can be taken up. However, the PPTS makes it clear that local planning authorities should ensure that traveller sites are sustainable including environmentally so. Modes of travel and reducing the need to travel by private car fall within this 'umbrella'.
20. Although the appellant and his son travel to the site to care for the horses upon it a couple of times a day, it is likely that the number of journeys that the residential occupancy of the site would generate would be significantly more, particularly when considering journeys to access shops, education and healthcare, as well as deliveries to the site.
21. I note that the Council has granted planning permission for gypsy and traveller pitches at the Hawthorns on the opposite side of the bypass to the appeal site, however whilst it is likely that occupiers of this site have a high dependency on a private vehicle to access day to day services, this site is more closely related to development within the settlement of Albrighton, and not separated from it by transport infrastructure. This site is thus not directly comparable to the appeal site and does not provide justification for the appeal proposal.
22. Given the above I conclude that the appeal site is not suitably located for the proposal because of the conflict with CS Policy CS12 which seeks to ensure that gypsy and traveller sites are reasonably accessible to services and facilities, amongst other matters. Moreover, the high dependency on the private motor vehicle would conflict with the environmental role of sustainability.
23. The Council has referred to CS Policy CS6 within its refusal reason. Given the scale of the proposal I find that it would be unlikely to generate significant levels of traffic. The design of the caravans could incorporate the sustainable design principles advocated by this policy. Accordingly, there would be no conflict with this policy. Similarly, I find that there would be no conflict with SAMDev Policy MD2 which also relates to sustainable design.
24. Although SAMDev Policy MD7a seeks to manage housing development in the countryside, the reference to dwelling house and market dwelling throughout the policy indicates that it is not a policy that is relevant to the proposal before me. As the appeal site is located outside of the development boundary for Albrighton, Policy S1 of the SAMDev is also not relevant.

Other Considerations

Need For and Provision of Sites

25. The Council undertook a Gypsy and Traveller Accommodation Assessment (GTAA) in 2017 which was updated in 2019. The 2019 update considered the accommodation needs of Gypsies and Travellers meeting the definition set out in Annexe 1 of the PPTS and also settled Travellers who may not meet the definition but identify as a Gypsy or Traveller. It covers the period 2016/2017 to 2037/38.
26. This GTAA update, the methodology and findings of which is challenged, indicates that there is a need culturally for 113 pitches over the plan period to 2037/2038 and a PPTS Gypsy and Traveller need of 43 pitches. Given the natural turnover of pitches, the Council has calculated that the supply of pitches would exceed the demand for pitches over the plan period and therefore indicates that there is not a need for new gypsy and traveller pitches.
27. Notwithstanding this, the GTAA 2019 update identifies that if turnover is not accounted for, that there is a 5 year authorised pitch shortfall from 2016/17 to 2020/21 of 24. It also accepts that even taking into account turnover that there will still be some need for the provision of small sites to address any arising needs of Gypsy and Traveller families.
28. Whilst noting both parties' cases in this regard, it is clear that at the time of the Hearing, there were 14 families on the Council's waiting list, not including the intended future occupiers, and 6 pitches available on the Council's site at Craven Arms. There was no availability at any of the Council's other sites, or on private sites. So, at this time the supply of available sites does not appear to cater for the needs of gypsy and travellers in the area. The proposal would assist in making up the shortfall in sites at this time on a small site which in part, addresses the arising need of Gypsy and Traveller families. I attach significant weight to this matter.

Alternative Sites

29. Other than the Craven Arms site, which is occupied by an extended family, all of the other Council owned sites are full. The Craven Arms site is some distance from the appeal site where the appellant keeps his horses and the twice daily journey to check on their welfare would take a considerable amount of travel time for the intended future occupiers. It is also some distance from the appellant's home and other family members who provide support and help with childcare.
30. Within Telford and Wrekin, the Council acknowledge that there is little capacity on permanent sites but point to a transit site within Telford which has capacity. Whilst this would assist in providing a pitch for the appellant's son and his family, it is likely that the pitch could only be occupied for a short period of time, after which the family would need to find alternative accommodation. Such provision would not provide the settled base the intended future occupiers are seeking.
31. Given the above, I find that there is a lack of suitable, available, affordable and acceptable alternative accommodation within the locality for the intended occupiers of the site, a matter to which I give significant weight.

Personal Circumstances

32. The appellant owns the appeal site. The intended future occupiers of the site are his son, his son's partner who is pregnant, and their pre-school age child. Currently this family is living on the appellant's driveway in Telford and prior to this they were in Cirencester with family and friends. They have also lived on the roadside and have not had a settled base as a family unit.
33. The appellant's son and his family are seeking a settled base upon which to bring up their children and where they can also care for the appellant's horses which are stabled on the appeal site. It is intended that once the child(ren) are old enough that they will attend school which would be essential for their educational and social development. A settled base would also allow the intended future occupiers, including their child(ren) access to healthcare nearby, including doctors, health visitors and hospitals. This is particularly important given the age of the child, the expectant mother, and the health conditions of both parents.
34. In the event that the intended future occupiers cannot live on the appeal site, they would either need to continue living on driveways or the roadside. Such an existence in itself presents challenges in maintaining a good standard of health and well being and is not in the best interests of children.
35. Taking account of these factors, the personal circumstances of the future occupiers of the site, and especially the best interests of the child(ren), weighs substantially in favour of the proposal.

Other Appeal Decisions

36. My attention has been drawn to a number of appeal decision. In the case of Adbo Farm, Rosehill² the Inspector found that there was at least some prospect that alternative modes of transport could be used for some of the journeys made by the occupiers of the site, with reference being made to a footpath connecting the appeal site to a bus stop. These circumstances are not directly comparable to the appeal site or the journey that would need to be taken to access nearby services and facilities.
37. In the appeal at Land at The Stables, Leamside³ the Inspector found that the appeal site was not 'away from' an existing settlement, and thus given my finding above, this case is not directly comparable to that before me. Moreover, it appears that the highway conditions were not comparable to those in the appeal before me, including the journey to the nearest bus stop. In the land to the north west of Nelson's Lane appeals⁴ whilst the distances from the settlement are similar to the appeal case, it appears that the context was different with sporadic development characterising the area as opposed to open, undeveloped countryside.
38. At the site at land at Willows Park, Slapton, Buckinghamshire⁵ there was already a traveller site in this location which was served by a school bus. Whilst some of the issues raised are similar to those in the case before me, the circumstances are not directly comparable.

² Ref APP/L3245/A/13/2196615

³ Ref APP/X1355/C/14/2222375

⁴ Ref APP/X0360/W/16/3150332 & APP/X0360/C/16/3150373

⁵ Ref APP/J0405/C/13/2193582 & APP/J0405/C/13/2193601

39. The distances between the appeal site and the services in nearby settlements are similar to those in the appeal relating to 150 Sparrow Cottage, Shawbury Heath⁶. The unlit roads and lack of pedestrian facilities appears similar to as do the concerns raised by the Council in terms of accessibility. However, without understanding the context of this case, I am unable to ascertain whether the circumstances are directly comparable to that before me.
40. I acknowledge that the distances involved to the edge of Albrighton are not excessive and note the comments of the Inspector in the Washbeck Paddock, Scotby case⁷ who found that if a settlement could be walked to then it was not away from the settlement for the purposes of the PPTS. It is unclear from this decision what the intervening land uses were or whether the highway conditions are comparable to the case before me.
41. Consistency in decision making is important to maintain public confidence in the system, but each and every case must be determined on its own merits. That is all the more so where personal need and other circumstances fall to be considered and in different policy contexts in some of the cases. Having considered all of these decisions, none is directly comparable with this case and accordingly this limits the weight I can give these decisions in my consideration of this case.

Animal Welfare

42. I note that a residential presence on site may be of benefit to the appellant in terms of caring for his horses, and that there may be some security benefits. However, I have little evidence before me to indicate that the existing arrangements are unsatisfactory in terms of both welfare and security. Moreover, and as set out above, I consider that the proposal would not result in a reduction in the number of vehicle movements to and from the site. Limited weight is given to these matters.

Social and Economic Benefits

43. I acknowledge that involvement in community life including attending school, frequenting local shops, places of worship and public houses would be likely to promote peaceful and integrated co-existence between the site and local community, however, this would be likely to be achieved irrespective of where the site was located.
44. I have no reason to find differently to the appellant that a settled base on the appeal site would be sustainable economically and socially. It would also be environmentally sustainable in relation to flood risk. However, such benefits would be small given the quantum of development proposed.
45. The Framework makes it clear that its sustainability objectives are interdependent and need to be pursued in mutually supportive ways. The harm to the Green Belt that would result would be substantial and taken with the high reliance on a private motor vehicle to access day to day services, conflicts with the environmental objective of sustainable development, which, amongst other matters seeks to protect our natural environment and move to a low carbon economy. This harm significantly outweighs the social and economic

⁶ Ref APP/L3245/A/14/2215836

⁷ Ref APP/E0915/A/12/2182881

benefits of the proposal which results in the development not comprising sustainable development.

Planning Balance

46. At the start of considering the planning balance I have borne in mind the duties under the Public Sector Equality Duty and have placed no single aspect above the best interests of the child(ren) whose family intends to live on the site.
47. Paragraph 137 of the Framework makes it clear that the Government attaches great importance to Green Belts. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In accordance with paragraph 148 of the Framework, substantial weight is given to any harm to the Green Belt, which arises in this case from inappropriateness, loss of openness and encroachment, contrary to one of the Green Belt's purposes. Added to that is the unsuitable location of the appeal site, in conflict with the development plan and national planning policy.
48. Balanced against this is the need for more gypsy and traveller sites to cater for the current demand, to which I give significant weight. Significant weight is also given to the lack of suitable, available, affordable and acceptable alternative accommodation for the appellant's family at this time, with substantial weight given to the personal circumstances of the appellant's family, and particular the best interest of the child(ren). Limited weight is given to other matters, including animal welfare, vehicle trips and the social and economic benefits that would arise from the appellant's family living on the appeal site.
49. Taking all the above into account I find that the cumulative weight given to the other considerations do not clearly outweigh the harm that would be caused to the Green Belt and the conflict with the development plan taken as a whole. Consequently, the very special circumstances necessary to justify a permanent permission do not exist.
50. I have considered whether the grant of a personal or temporary planning permission would be justified and acknowledge that the proposal would be less harmful to the Green Belt because it would be for a temporary duration. However, the poor relationship to the nearest settlements would continue to exist and for these reasons and having regard to the other considerations advanced, including the best interest of the child(ren) I find that they would neither individually nor cumulatively outweigh the identified harm. Accordingly, a personal or temporary permission would not be justified in this case.
51. Even if I were to accept the assertion made by the appellant that the Council's development plan policies in respect of this appeal are out-of-date, the presumption given by paragraph 11 d) of the Framework does not apply because the policies in the Framework that protect areas or assets of particular importance, including land designated as Green Belt, provide a clear reason for refusing the development proposed.
52. The intended future occupiers do not live on the appeal site and dismissal of the appeal is likely to lead to circumstances where they continue to reside on driveways of friends and family or are faced with a life on the road. This would be an interference with their rights to a family life and to establish a home to facilitate a gypsy way of life but given the clear public interest in protecting the

Green Belt from harm and ensuring that new development meets the provisions of the development plan, I am satisfied that the dismissal of the appeal is necessary and proportionate.

Conclusion

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

RC Kirby

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Matthew Green	GPS Ltd
John Price	Appellant
John Price	Appellant's son

FOR THE COUNCIL

Mike Davies	Consultant Planner
Dan Corden	Shropshire Council
Anna Jones	Shropshire Council
John Taylor	Shropshire Council

DOCUMENTS SUBMITTED DURING THE HEARING:

Document 1: Witness Statement of John Price

DOCUMENTS SUBMITTED AFTER THE HEARING

Document 2: Agreed wording for condition relating to the reduction in amount of hardstanding.