

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

Date: Monday, 19 June 2023

Committee:
Southern Planning Committee

Date: Tuesday, 27 June 2023

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.

Please click [here](#) to view the livestream of the meeting on the date and time stated on the agenda

The recording of the event will also be made available shortly after the meeting on the Shropshire Council Youtube Channel [Here](#)

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
Assistant Director – Legal and Governance

Members of the Committee

David Evans (Chairman)
Nick Hignett (Vice Chairman)
Caroline Bagnall
Andy Boddington
Richard Huffer
Christian Lea
Hilary Luff
Nigel Lumby
Tony Parsons
Ed Potter
Robert Tindall

Substitute Members of the Committee

Gwilym Butler
Rachel Connolly
Nigel Hartin
Pamela Moseley
Cecilia Motley
Claire Wild
Mark Williams
Paul Wynn

Your Committee Officer is:

Tim Ward / Ashley Kendrick Committee Officer

Tel: 01743 257713 / 01743 250893

Email: tim.ward@shropshire.gov.uk / ashley.kendrick@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 8)

To confirm the minutes of the Southern Planning Committee meetings held on 9 May 2023 and 11 May 2023

Contact Tim Ward (01743) 257713.

3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is no later than 5.00 pm on Thursday 22 June 2023

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 Proposed Residential Development Land East Of Bull Ring Claverley Wolverhampton Shropshire (22/05723/FUL) (Pages 9 - 26)

Erection of no.4 x 2 bedroom affordable local needs dwellinghouses, creation of no.3 bin storage areas, car parking and associated infrastructure.

6 Quercus Domus, Pound Lane, Hanwood, Shrewsbury, SY5 8JR (23/01602/FUL) (Pages 27 - 34)

Erection of two storey extension and alterations.

7 Schedule of Appeals and Appeal Decisions (Pages 35 - 68)

8 Date of the Next Meeting

To note that the next meeting of the Southern Planning Committee will be held at 2.00 pm on Tuesday 25 July 2023

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Committee and Date

Southern Planning Committee

27 June 2023

SOUTHERN PLANNING COMMITTEE

Minutes of the meeting held on 9 May 2023

2.00 - 4.30 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Tim Ward / Ashley Kendrick

Email: tim.ward@shropshire.gov.uk / ashley.kendrick@shropshire.gov.uk Tel: 01743 257713 / 01743 250893

Present

Councillors David Evans (Chairman), Nick Hignett (Vice Chairman), Caroline Bagnall, Andy Boddington, Richard Huffer, Christian Lea, Hilary Luff, Nigel Lumby, Tony Parsons, Ed Potter and Robert Tindall

131 Apologies for Absence

There were no apologies for absence received.

132 Minutes

RESOLVED:

That the Minutes of the meeting of the Southern Planning Committee held on 11 April 2023 be approved as a correct record and signed by the Chairman.

133 Public Question Time

There were no public questions.

134 Disclosable Pecuniary Interests

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

In respect of agenda item 8 Councillor David Evans declared that he was the local Member and that he would withdraw from the meeting and take no part in the debate or voting.

In respect of agenda item 8 Councillor Hilary Luff declared that she was the local Member and that she would withdraw from the meeting and take no part in the debate or voting.

**135 Proposed Solar Farm to the west of Berrington, Shrewsbury, SY5 6HA
(22/04355/FUL)**

Councillor Claire Wild, Local Member for the application declared a non-pecuniary interest in the application and stated that following advice from the Council solicitor she would make a statement and then leave the room.

The Principal Planner introduced the application which was an application for the erection of an up to 30 MW Solar PV Array, comprising ground mounted solar PV panels, vehicular access, internal access tracks, landscaping and associated infrastructure, including security fencing, CCTV, client storage containers and grid connection infrastructure, including substation buildings and off-site cabling and with reference to the drawings and photographs displayed, he drew Members' attention to the to the location and layout.

The Principal Planner confirmed that members had attended a site visit and drew attention to the information contained in the schedule of late representations and copies of further correspondence received ahead of the meeting which Members had before them.

David King spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Marcia Rathbone spoke on behalf of Berrington Parish Council against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Councillor Claire Wild, local Ward Councillor spoke against the application in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Jaques Carboni, (Agent), spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Members felt that the mitigations offered in respect of the best and most versatile land and ecological concerns were not sufficient and that the benefits of the clean energy was outweighed by the negative effects of the development.

RESOLVED:

That contrary to Officer recommendation planning permission be refused for the following reasons: -

- The application would result in the loss of best and most versatile agricultural land.
- The application would have a harmful ecological effect
- The application would have a harmful effect on the landscape

136 Land North of B4380, Buildwas, TF8 7DA (22/04666/DSA106)

Members were advised that following legal advice the item had been withdrawn because it was considered not to meet the relevant criteria for committee referral. Members were asked to note that the application would be determined instead by officers.

137 West Bungalow Chirbury Montgomery Shropshire SY15 6BH (22/04842/OUT)

The Development Manager introduced the application which was an outline application for the demolition of existing bungalow and erection of 2No. dwellings (all matters reserved) and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location and proposed layout and elevations.

The Development Manager confirmed that members had attended a site visit and drew attention to the information contained in the schedule of late representations. which Members had before them.

Margaret Koenig spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Scott Higgins spoke on behalf of Chirbury with Brompton Parish Council against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Councillor Heather Kidd, local Ward Councillor spoke in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Members felt that single storey dwellings would be more suitable for the plot as they would fit in with the existing street scene and preserve the view of the listed church behind the plot. Officers were asked to convey this to the applicants.

Members requested that the reserved matters application be brought to committee for determination

RESOLVED:

That in accordance with the Officer recommendation Outline Planning Permission be granted subject to the conditions set out in the report, and that the reserved matters application be brought to Committee for determination

138 Barn To The Rear Of Brockhurst Church Stretton Shropshire (23/00820/FUL)

In accordance with her declaration Hilary Luff left the meeting and took no part in the consideration of the application.

The Vice Chairman, Councillor Nick Hignett took the chair.

The Principal Planner introduced the application which was an outline application for the demolition of existing bungalow and erection of 2No. dwellings (all matters reserved) and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location and proposed layout and elevations.

The Development Manager confirmed that members had attended a site visit and drew attention to the information contained in the schedule of late representations.

Councillor David Evans, local Ward Councillor made a statement in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, and then left the room.

Stephanie Smith Pearse (Applicant) spoke in favour of the application in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Members felt that the design was sympathetic and would be an improvement on the existing building. They also felt that it would allow a local family to remain in the area.

RESOLVED:

That contrary to Officer recommendation planning permission be granted and that delegated authority be given to officers to apply conditions as necessary, including the removal of permitted development rights

139 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 9 May 2023 be noted.

140 Exclusion of Press and Public

RESOLVED:

That under Section 100 (A) of the Local Government Act 1972 the proceedings in relation to the following items shall not be conducted in public on the grounds that they involve the likely disclosure of exempt information as defined by the provisions of Schedule 12A of the Act.

141 Planning Enforcement Quarterly Report

Member received the report of the Assistant Director of Economy and Place which updated them on the performance of the Enforcement Team and advised them of the outcome of recent significant decisions.

RESOLVED:

That Members note the progress of planning enforcement case investigations and the exercise of delegated powers in respect of decisions in accordance with the Council's enforcement protocol

142 Date of the Next Meeting

Members were advised that the meeting scheduled to be held on 30 May 2023 had been cancelled and that the next meeting of the Southern Planning Committee would be held on Tuesday 27 June 2023 at 2.00pm

Signed (Chairman)

Date:

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<u>Committee and Date</u>
Southern Planning Committee

SOUTHERN PLANNING COMMITTEE

Minutes of the meeting held on 11 May 2023

11.30 - 11.35 am in the Council Chamber, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND

Responsible Officer: Tim Ward / Ashley Kendrick

Email: tim.ward@shropshire.gov.uk / ashley.kendrick@shropshire.gov.uk Tel: 01743 257713 / 01743 250893

Present

Councillor David Evans (Chairman)
Councillors Nick Hignett (Vice Chairman), Andy Boddington, Christian Lea, Hilary Luff, Nigel Lumby, Tony Parsons, Robert Tindall, Rachel Connolly (Substitute) (substitute for Caroline Bagnall), Nigel Hartin (Substitute) (substitute for Richard Huffer) and Claire Wild (Substitute) (substitute for Ed Potter)

1 Election of Chairman

Councillor David Evans and Councillor Nick Hignett were both proposed and seconded as Chair of the Committee. On being put to the vote, it was

RESOLVED: that Councillor David Evans be elected Chairman for the ensuing year.

2 Apologies for Absence

Apologies for absence were received from Councillors Caroline Bagnall, Richard Huffer and Ed Potter. Councillors Rachel Connolly, Nigel Hartin and Claire Wild attended as substitutes, respectively.

3 Appointment of Vice-Chairman

Councillor Nick Hignett was both proposed and seconded as Vice-Chair of the Committee.

RESOLVED: that Councillor Nick Hignett be appointed as Vice-Chair for the ensuing year.

Signed (Chairman)

Date:

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Committee and date
Southern Planning Committee
th June 2023

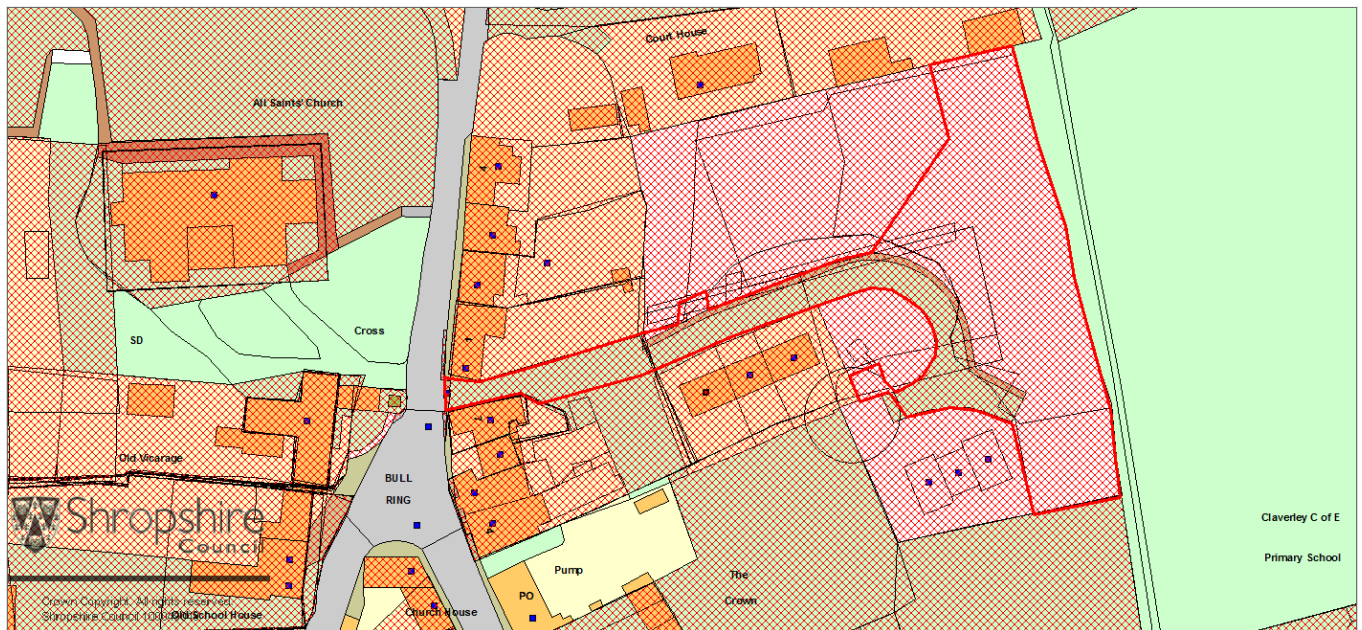
Development Management Report

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

Summary of Application

<u>Application Number:</u> 22/05723/FUL	<u>Parish:</u>	Claverley
<u>Proposal:</u> Erection of no.4 x 2 bedroom affordable local needs dwellinghouses, creation of no.3 bin storage areas, car parking and associated infrastructure		
<u>Site Address:</u> Proposed Residential Development Land East Of Bull Ring Claverley Wolverhampton Shropshire		
<u>Applicant:</u> OAKWOOD HOMES (Bridgnorth) LTD		
<u>Case Officer:</u> Rachael Evans	<u>email:</u>	rachael.evans.planning@shropshire.gov.uk

Grid Ref: 379348 - 293393



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Recommendation:- Refuse

Recommended reason for refusal

This application to address local affordable housing needs is outweighed by the constricted access which makes the site unsuitable for additional dwellings, as the waste servicing arrangements needed to make this development acceptable would harm the existing amenity enjoyed by the occupiers of the adjacent residential properties located either side of the site access on Church Street & Bull Ring. Furthermore, the functional layout of the development (ie: the distance between the proposed dwellings and bin / composting areas) is unacceptable. The development would therefore be contrary to Development Plan policy CS6 of the Core Strategy and Policy MD2 of the SAM(Dev)Plan as well as provisions contained within the NPPF

REPORT

1.0 THE PROPOSAL

- 1.1 This application is for the erection of four 2 bedroom affordable dwellinghouses to meet local needs, three bin storage areas, car parking and associated infrastructure, on land east of Bull Ring, Claverley. Two of the dwellings will be for sale at a discounted price and two will be for rent with a capped rent (at the Local Housing Allowance rates). This approach is known as a 'cross subsidy

housing scheme' and would be controlled by a legal agreement.

- 1.2 This application (ref: 22/05723/FUL) is a resubmission of 21/02876/FUL (Erection of no.6 affordable dwellings and associated infrastructure and aims to address the reasons for refusal which is as follows:

Whilst the proposal would add to the pool of local needs housing which weighs in favour of the development, this is outweighed by the constricted access which makes the site unsuitable for additional dwellings, as the interventions and waste servicing arrangements needed to make this development acceptable would harm the amenity of the location within the centre of this attractive and historic settlement, and would lead to a significant erosion of existing amenity enjoyed by the occupiers of the adjacent residential properties. Furthermore, insufficient information has been submitted to demonstrate that the proposed junction improvements can be constructed without having a detrimental impact on the surrounding highway network. The development would therefore be contrary to Development Plan policies CS6, CS17, MD2, and MD13 and sections, 8, 11,12 and 16 of the NPPF.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site lies to the east of Bull Ring, Claverley with vehicular access to the site from between no.1 Church Street and no.7 Bull Ring and is known as Kings Arms Court. To the west of the site is a residential development currently under construction which was permitted under planning application reference 18/05149/FUL. To the south of the site is a field parcel with public house car park beyond. To the north of the site are residential dwellings whilst to the east is Claverley Primary School.

- 2.2 The site is not within the Green Belt but is adjacent to it. The site lies within the Claverley Conservation Area and whilst there are no listed buildings or structures on the site, there are a large number of listed buildings in the immediate locality of the site which include Nos. 6-7 Bull Ring that form part of the group of adjoining buildings that include the former King Arms which are Grade II Listed and Nos. 2-4 Church Terrace which are also Grade II Listed. There is a significant number of other nearby Listed Buildings including, most significantly, the Church of All Saints on the west side of the Bull Ring, which is Grade I Listed, and the Vicarage which is adjacent to the church, which is Grade II* Listed.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1 Cllr Butler has called the application into Planning Committee. The Chair of Planning Committee, Cllr Evans, has requested that the application be heard at the Southern Planning Committee.

4.0 Community Representations

Consultee Comment

- **Waste Management** – Objection as per the original application as follows:
The access road to the development is unadopted and there are no plans for it to be adopted.
- A 26t vehicle is used to collect waste in the area and due to the volume of waste collected and our routing, it is not viable for us to change this
- The entrance to the development is unfortunately too narrow for our vehicles. At its narrowest point it is approximately 3m. It would need to be 5m plus.
- The access road has not been built to withstand a 26t vehicle and we would have concerns about our liability for damage caused by our vehicle and for damage to our vehicle by using the access road.
- As a result of the above, we will require the collection point to remain where the access road meets the adopted highway.

Environmental Protection – Objection – Concerns raised with regard to the management and maintenance of the composting area.

Local Highway Authority – No objection subject to conditions

Shropshire Fire and Rescue – No objection although a robust swept path analysis should be carried out to demonstrate service vehicles can access the site.

Affordable Housing Team – No objection subject to affordable housing being secured by S106

Tree Officer – No objection subject to conditions

Heritage Officer – No objection subject to conditions

Archaeology Officer – No comment

Shropshire Council Ecologist – No objection subject to conditions

Drainage Officer / LLFA - No objection. Informatives recommended

Public Comments

A summary of the comments received by consultees and the public are below. Full details of the comments made can be found on the Council's public access website.

Claverley Parish Council have submitted the following comments on the proposals in support of the scheme:

- The previous application for no.6 affordable houses has permission for no.6

roadside bins. If this application is approved, it is understood that the applicant will rearrange for no.5 of the previously approved properties to have internal site collections

- Properties under construction / built out have affordable interest as per the affordable housing scheme intentions
- Traffic flows and congestion in the village is due to on street parking
- The proposed driveway / entrance is the same width as that of the Church

At the time of writing, 21 public objections have been made against the proposed development. A summation of the objections are as follows:

- 6 affordable houses were refused by Shropshire Council on the grounds that " whilst pool of local housing needs was in favour, this was outweighed by constricted access which made the site unsuitable for additional dwellings as interventions and waste servicing arrangements needed to make this development acceptable." "Furthermore this would harm the amenity of the location within the centre of this attractive and historic settlement and would lead to significant erosion of existing amenity enjoyed by occupants of adjacent properties."
- The reduction in unit numbers from six dwellings to four makes no material difference to the reasons for refusal.
- The centre of the village is experiencing traffic chaos and this development will add further to it.
- Impact on neighbour amenity
- Impact on the character of the conservation area
- Increase in noise levels, pollution and health
- Additional impact on services in Claverley (School & Medical centre)
- Construction works may cause damage to the historic monument of the Bull Ring
- Access must be building regulation compliant
- Shropshire Fire and Rescue should be consulted

Claverley is already often difficult to negotiate on a daily basis. It is used as a short cut between the A454 Wolverhampton - Bridgnorth Road and the A453 Bridgnorth to Kidderminster Road and due to narrow roads in the village one can often have to take two or three attempts to get from one end of Church street to the other. This is without all the problems now being created by these dwelling and their inaccessibility such as the refuse collection vehicles which have to block the Bullring whilst dealing with the refuse from these buildings.

5.0 THE MAIN ISSUES

5.1 The main issues are limited to the following:

- The principle of development
- The storage and collection of domestic, recyclable and garden waste from the proposed development.

- 5.2 The local highway authority have been consulted on the scheme and raise no issues with regard to the access / build out arrangements. There are no concerns regarding the scale and design of the dwellings nor does the proposal raise any concerns in respect of heritage, ecology, trees or drainage.

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 A key objective of both national and local planning policies is to concentrate new residential development in 'sustainable' locations which are easily accessible, and which offer a range of services and community facilities.
- 6.1.2 Policy CS1 of the Shropshire Council Core Strategy (CS) 2011 sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 35% of these being within the rural area, predominantly in Community Hubs and Community Clusters.
- 6.1.3 The application site is not located within a Community Hub or Community Cluster and located within the Countryside.
- 6.1.4 Development of the site falls to be considered as development in the open countryside, but not in the Green Belt, and as previously can be treated as a Rural Exception Site for affordable housing under Policies CS5 and CS11. The key test in Policy CS11 is that it is an exception scheme for local needs affordable housing on a site in a recognisable named settlement, and which subject to suitable scale and design (considered below), can through the granting of permission subject to S106 agreement, ensure the tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity.
- 6.1.5 The principle of the development of the site, as a Rural Exception Site has previously been accepted in terms of its location adjacent to the village centre and its close proximity to local community facilities. Furthermore, recent data provided by the Affordable Housing Team have confirmed that there is an affordable housing need in the Borough, as well as a local affordable housing need.
- 6.1.6 The recent housing figures for Claverley (April 2021) set out the 17 families have Claverley as a first choice of Parish, of the 17, 11 have a strong local connection. Of the 11, 4 want a one bedroom, 3 want a two bedroom and 4 want a 3 bedroom property.
- 6.1.7 There is an application for no.12 affordable dwellings at Ashford Bank, Claverley pending determination which is recommended for approval subject to the signing of a S106. Until such time that the application is determined and a decision

issued, little weight can be given to this application as the development is not 'committed development'.

- 6.1.8 The principle of the proposal for 4 affordable local needs dwellings is therefore acceptable.

6.2 Suitability of the site and access for services

Waste Collection (Refuse, Recycling & Garden Waste)

- 6.2.1 The main issue raised by this application is the suitability of the site to accommodate additional dwellings in the light of the constricted access arrangement and the implications that this has on the collection of waste (domestic, recyclable and garden waste).

- 6.2.2 The National Planning Policy for Waste (2014) sets out detailed waste planning policies. The Policy includes the following which is of relevance to the Proposed Development:

'8. When determining planning applications for non-waste development, local planning authorities should, to the extent appropriate to their responsibilities, ensure that:

'new, non-waste development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities

with the rest of the development and, in less developed areas, with the local landscape.'

- 6.2.3 Core Strategy policy CS6 seeks to ensure that all development is designed to a high quality and that proposals demonstrate the provision of storage facilities for waste recycling. Furthermore, Core Strategy Strategic objective 9 refers to the effective and sustainable waste management

- 6.2.4 The Shropshire Council (2022 Update) Shropshire Refuse and Recycling – Advice for Developers guidance sets out the requirement for the storage of household waste and confirms that Shropshire Council's current household collection scheme is based on the provision of wheeled bins for residual waste, garden and Recycling (plastic, cans and glass) and a 72 Litre Woven bag for cardboard and paper, all of which are collected on a fortnightly basis.

- 6.2.5 Each household would generate three wheeled bins for refuse, recycling (mixed cans, plastics and glass) and garden waste, a woven blue bag for paper and cardboard and a food waste caddy

- 6.2.6 It is noted that the Building Regulations Part H (2015) states that Householders shouldn't need to carry refuse more than 30m to storage areas and these should be within 25m of any waste collection point specified by the waste collection

authority, however, The Shropshire Council (2022 Update) Shropshire Refuse and Recycling guidance requires the following waste collection protocols to be observed:

- Residents should not have to pull/push bins or carry waste for more than 25 metres;
- Collection crews should not have to push/pull 2 wheeled containers or carry individual waste containers more than 15 metres (from the collection point for the vehicle);
- Collection crews should not have to push/pull 4 wheeled containers more than 10 metres;
- A safe stopping bay or equivalent should be provided with sufficient turning area and manoeuvring space for the collection vehicle;
- Recycling bins should be located with refuse bins and clearly labelled, and
- Collection vehicles cannot collect containers that are on a slope. The gradient of a slope that containers need to be moved over must not exceed 1:12

6.2.7 In this case, the access drive is unadopted and there are no plans for Shropshire Council to adopt it. SC Waste Management Team have reiterated their comments made on the 21/02876/FUL application confirming that:

- The access road to the development is unadopted and there are no plans for it to be adopted.
- A 26t vehicle is used to collect waste in the area and due to the volume of waste collected and our routing, it is not viable for us to change this
- The entrance to the development is unfortunately too narrow for our vehicles. At its narrowest point it is approximately 3m. It would need to be 5m plus.
- The access road has not been built to withstand a 26t vehicle and we would have concerns about our liability for damage caused by our vehicle and for damage to our vehicle by using the access road.

As a result of the above, we will require the collection point to remain where the access road meets the adopted highway.

6.2.8 On the Garden / Recycling collection day, this could entail circa 8, 240 litre bins presented on the pavement either side of the entrance (this assumes all residents opt to have a bin for recycling) and 4 x 70ltr reusable bags. A 240 litre bin has a footprint of 0.43m². This, would be in addition to any receptacles placed at the access of the site by the development permitted by planning permission 18/5149/FUL.

Addressing the previous Reason for refusal

6.2.9 The applicant seeks to address the reason for refusal as set out on planning application (21/02876/FUL by:

1. Employing an operative to remove the bins from the site entrance when the refuse truck has made its collection, thereby limiting the time the bins remain on the pavement

2. Employ a private contractor - proposing the use of 1 x 1100 litre wheeled bin located in a dedicated position shown as bin store 1 within the site (refer to proposed site layout) for household waste for use by 2 of the rental properties of this application and 3 of the rental properties permitted under planning approval 18/5149/FUL). The domestic waste would be collected on site utilising a private contractor every other week.
3. Compost all green garden waste on site in the dedicated composting area as shown on the proposed layout plan.

Domestic Waste (non-recycling)

6.2.10 The applicant has confirmed that the private domestic collection would be funded by the applicant, Oakwood Homes. The applicant has confirmed that Oakwood Homes Ltd would receive the income from the rental properties (and own the rental properties) in perpetuity which in their view, offers substantial financial security to cover the cost of private bin collection (£13/week). The applicant suggests that this could be included in the legal obligation (106 agreement).

6.2.11 The applicant has confirmed in their letter of the 24th April 2023 that an on-site collection of household waste using a private contractor is in place and operational with an agreement in place with Cartwrights disposal service. It is their view that the private collection of household waste from 5 rental properties (no.3 rental properties from an earlier permission and no.2 rental properties sought by this permission) can be maintained in perpetuity by a S106 Agreement.

6.2.12 The applicant states that if this planning application is approved, there will be a reduction in the number of properties placing their refuse bins at the site entrance from 6 properties to 5 properties. The 5 properties that are sold (3 from a previous permission and 2 from this application) will place their bins at the site entrance. The 5 rental properties will use the onsite bulk wheelie bin (1 x 1100 ltr) collected by a private contractor. The applicant claims that this would be enforced in perpetuity with an inclusion in the section 106 agreement and in the tenancy agreements.

6.2.13 Whilst efforts of the applicant are noted in regard to collecting domestic waste using a private collection, the existing access arrangements are not going to alter and the proposed collection arrangements for the collection of domestic waste remain a concern. Ultimately, Shropshire Council has a statutory duty to collect waste and therefore, there remains serious concerns regarding the use of a private contractor for the collection of domestic waste.

6.2.14 Whilst the applicant has confirmed that there is a private collection in situ, photographs have been submitted by residents demonstrating the amenity & highway impact of no.6 bins (from an earlier approval) being located at the sites entrance. The applicant has confirmed that the photographs do not represent the existing refuse collection arrangements at the site owing to the fact that a private collection is in situ. An unannounced site visit was carried out on the general waste/refuse collection day by myself, (Rachael Evans) and there were no bins on the adopted highway.

6.2.15 However, what the submitted images demonstrate is that should the waste contractor cease trading and is unable to collect the domestic waste from the site, or if Oakwood Homes were unable to fulfil their obligations contained within any S106 regarding payment of a private collection service, then the onus would be on Shropshire Council to collect the domestic waste from the site.

6.2.16 A situation would therefore arise that on a general collection day, approximately 6 bins (from dwellings approved by the 18/18/5149/FUL) and 4 bins from dwellings proposed by this application would be located at the site entrance. This would not only result in a visual amenity issue, in addition to an outlook issue for the occupiers of no.1 Church Street having a large number of bins located directly outside their ground floor habitable windows, but also result in a highway safety issue as the access into the site is likely to be restricted and users of the footway/pavement are likely going to have to use the road on collection days until the receptacles are brought back into the site by tenants / homeowners

6.2.17 Recycling Waste

6.2.18 The applicant has confirmed that the collection of recycling waste is to be dealt with by the Local Authority and as such, residents would be required to wheel their bins / drag their bags to the site access for collection.

In regard to the garden/ recycling waste collection days, this development could generate 8 wheelie bins and no.4 bags at the site entrance. This would be in addition to the garden / waste receptacles of the properties permitted by the 2018 permission. As per the observations made with the collection of domestic refuse, this would not only result in a visual amenity issue, in addition to an outlook issue for the occupiers of no.1 Church Street having bins located directly outside their ground floor habitable windows, but also result in a highway safety issue as the access into the site is likely to be restricted and users of the footway/pavement are likely going to have to use the road on collection days until the receptacles are brought back into the site by tenants / homeowners.

6.2.19

Garden Waste

6.2.20 The applicant has confirmed that Oakwood Homes (Bridgnorth) ltd are responsible for maintaining the communal grounds including mowing the communal lawns and disposing of the autumn leaf fall. An onsite composting area is proposed to deal with this garden green waste. The applicant's agent has confirmed in a letter dated the 4th April 2023 that *'all of the green garden waste from the existing and proposed dwellings, along with communal lawn areas will be composted on site in the proposed bin storage area with composting facility'*.

6.2.21 However, a letter from the applicant dated 24th April confirms *'The rental properties will be required to use the on site composting area for their green garden waste (will be included in the tenancy agreement) and the "for sale" properties at Kings Arms Court will be encouraged to use the facility in order to reduce the green*

garden waste placed at the site entrance on bin collection day the rental properties will be required to use the onsite composting area for their green garden waste (will be included in the tenancy agreement).

6.2.22 The applicant's agent has confirmed that the composting area would be a concrete structure with 2 bays with retaining walls on three sides. The two bays will allow alternating use for mixing during the composting process. The compost area will be for green garden waste only and would be operated by the Oakwood Homes (Bridgnorth) Ltd for green waste from its communal areas. The use of the compost area will be extended to residents use in order to reduce the green waste placed at the site entrance on collection day. The compost will be used in the local gardens or on the communal areas. The applicant is proposing that the use and management of the composting area is secured by S106.

6.2.23 The Council's Environmental Health Officers have raised an objection with the on-site composting arrangements stating that there are concerns with respect to the potential amenity impact from the proposed composting in regard to odour and pests on site of residents and communal waste. There is concern by Environmental Health that it is unclear how the composting would be managed and where the responsibility would lie if there was an odour and/or pest issue however, 6.2.24 as set out above, the applicant (Oakwood Homes (Bridgnorth) Ltd) or any successor would be responsible for any management problems of the facility.

6.2.25 Bin Drag Distances (All Bins / Receptacles – Refuse, Garden, Recycling)

6.2.26 Drawing KAC/PL/300A (Phase 2 Site Layout) shows that the proposed layout and bin stores and composting area proposed by this planning application.

Shropshire Council has guidance with how far 'Council Refuse Collection Persons' and occupiers of residential dwellings should be expected to 'drag' (or wheel) their bins.

6.2.27 The drag distance contained within the Shropshire Council Guidance is slightly stricter than the Building Regulations Part H however, as the Council's document is 'guidance', it is not considered unreasonable to apply the '30m' drag distance as 6.2.28 set out in part H of the Building Regulations.

6.2.29 The applicant has confirmed that the Bin Stores would be located within 30m of the adopted highway however, the proposed site layout plan (drawing reference: KAC/PL/300A) shows bin store 1, approximately 46m from the adopted highway. Bin Store 2, would be approximately 115m from the adopted highway whilst the compost area in the south east of the site would be approximately 130m from the adopted highway.

6.2.30 Any Council issued waste receptacles or bags stored within the site would not be within any the acceptable 'Drag' distance nor is it considered reasonable to for the Council's refuse collectors to collect waste from such distances.

Plot 10 is considered to be within an acceptable drag distance of Bin Store 1 however, the remaining 3 dwellings would not be within a reasonable distance. All no.4 dwellings would be located within an acceptable drag distance of bin store 2. Only Plot 7 would be within an acceptable distance for the disposal of green waste.

6.2.31 In all cases, the proposed bin stores are located too far from the adopted highway and too far from the residential dwellings. To require residents to drag recycling bins and/or carry recycling bags to the adopted highway from distances between 46m – 115m is wholly unacceptable.

6.2.32

Assisted Collections – All Bins / Waste Receptacles

The applicant has provided no details with how they intend to deal with occupiers of all 4 dwellings with regards to 'assisted' collections. This is where occupiers of a residential dwelling cannot present their bins /bags at the roadside due to ill health / mobility issues.

Access for Fire Service

Policy CS6 of the Core Strategy requires that all development is designed to be adaptable in addition to being safe and accessible to all. The site has a pinch point within the access of 3.1m. Part B5 of The Building Regulations require gateways to have a minimum width of 3.1m and a minimum road width between kerbs of 3.7m.

The Fire Service have not raised any objection to the scheme although have requested that the Local Highway Authority ensure a robust swept path analysis has been undertaken to accurately track the suitability of the site for fire appliances.

The Local Highway authority raise no objection to the proposals.

7.0 CONCLUSION

7.1 This application proposes four affordable houses to address a local need. It is not disputed that this application would contribute to addressing the identified local affordable housing need in the area which weighs in favour of the development. The efforts made by the applicant to secure the collection of domestic waste and garden waste via a private contractor, secured through a S106 are noted however given that Shropshire Council have a statutory duty to collect waste, should the applicant (or any successor in title) apply to have the obligations removed from the S106 then, the Local Planning Authority may be in a difficult position to refuse any such application as tests within the CIL regulations may not be met.

7.2 The positive contribution to local affordable housing needs is outweighed by the constricted access which makes the site unsuitable for additional dwellings, as waste servicing arrangements needed to make this development acceptable would unacceptably harm the existing amenity enjoyed by the occupiers of the adjacent

residential properties located either side of the site access on Church Street & Bull Ring. Furthermore, the functional layout of the development (ie: the distance between the proposed dwellings and bin / composting areas) is unacceptable. The development would therefore be contrary to Development Plan policy CS6 of the Core Strategy and Policy MD2 of the SAM(Dev)Plan as well as provisions contained within the NPPF.

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

POLICY CONSIDERATION

The adopted Development Plan comprises of the following of documents:

- Shropshire Local Development Framework: Adopted Core Strategy – March 2011
- Shropshire Council Site Allocations and Management of Development (SAMDev)Plan – December 2015

Whilst the development plan is to be read as a whole, the most pertinent Policies are as follows:

CS1 – Strategic Approach

CS5 – Countryside and Green Belt

CS6 – Sustainable Design & Development Principles

CS9 – Infrastructure Contributions

CS11 – Type and Affordability of Housing

CS17 – Environmental Networks

CS18 – Sustainable Water Management

MS1 – Scale and Distribution of Development

MD2 – Sustainable Design

MD3 – Delivery of Housing Development

MD7a – Managing Housing Development in the Countryside

MD7b – General Management of Development in the Countryside

MD12 – Natural Environment

MD13 – Historic Environment

There are also other material considerations that are pertinent to the assessment of this application which are:

- The NPPF (2021)
- Historic Environment Consultation Draft SPD – March 2016
- Type and Affordability of Housing SPD – September 2012
- Sustainable Design SPD – July 2011
- Developer Contributions SPD – July 2011

RELEVANT PLANNING HISTORY:

18/05149/FUL Erection of 6No. affordable dwellings and associated infrastructure GRANT 29th October 2019

21/02876/FUL Erection of 6 No affordable dwellings and associated infrastructure REFUSE 20th October 2022

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RN99B8TDLB700>

List of Background Papers

Drawings / Plans

- Location Plan KAC/PL/300A
- Proposed Site Layout Plan KAC/PL/300A
- Proposed Floor Plan KAC/PL/310A (Plots 7 & 8)
- Proposed Floor Plan KAC/PL/312A (Plots 9 & 10)
- Proposed Elevations KAC/PL/311 (Plots 7 & 8)
- Proposed Elevations KAC/PL/313 (Plots 9 & 10)
- Highways – Proposed Access Improvements and Visibility Assessment (drawing ref: SA45964-BRY-ST-PL-C-0001)
- Highways – Swept Path Assessment (drawing ref: SA45964 – BRY-ST-PL-C-0002)

Documents

- Arboricultural Impact Assessment with Tree Protection Measures (Godwins Tree Surveys, 25th May 2021)
- Additional Statement dated 24th April 2023 (Jonathan Beaman, Oakwood Homes Ltd to Rachael Evans, Shropshire Council)
- Ecological Appraisal (Greenscape Environmental, 14th May 2021)
- Highways – Transport Statement (Berrys, 8th December 2022)
- Highways – Technical Note (Berrys, 24th April 2023)
- Heritage Statement (Winterburn Heritage & Planning, December 2022)

Cabinet Member (Portfolio Holder) - Councillor Richard Marshall
Local Member Cllr Elliott Lynch
Appendices APPENDIX 1 - Conditions

-

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Committee and date
Southern Planning Committee
27th June 2023

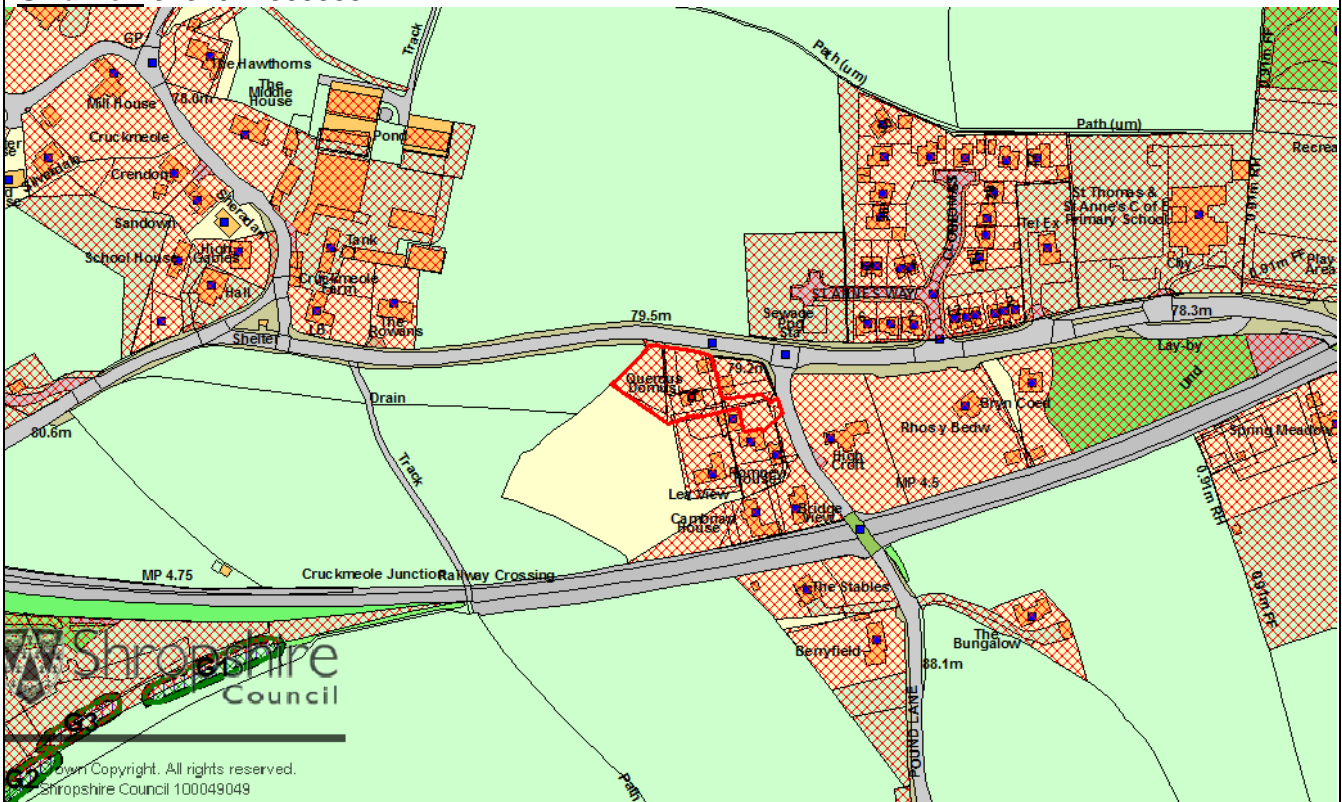
Development Management Report

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

Summary of Application

Application Number: 23/01602/FUL	Parish:	Pontesbury
Proposal: Erection of two storey extension and alterations		
Site Address: Quercus Domus, Pound Lane, Hanwood, Shrewsbury, SY5 8JR		
Applicant: Mr Jack Goodall		
Case Officer: Jacob Collett	email	: jacob.collett@shropshire.gov.uk

Grid Ref: 343402- 309355



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Recommendation:- Approve

REPORT

1.0 THE PROPOSAL

The submitted application proposes the erection of a two-storey side extension to the main dwelling on the northeastern elevation.

The applicant is a member of Shropshire Councils Building Control Team and therefore in accordance with the delegated powers within Section 8 of the constitution, the application must be determined at planning committee.

The original two-bedroom dwelling was first approved as a single plot exception site in 2013 (13/01656/FUL). Since this permission, an application was made under 18/04951/VAR to remove condition 8 which limited the internal floorspace to 100sqm. This was refused, and then appealed. The appeal was allowed with the inspector also removing conditions 9 & 10 which dealt with the removal of permitted development rights and use of the garage respectively. The inspector's position was that the section 106 upheld the affordable status of the dwelling, not the restriction in size.

In 2021 another application was submitted under 21/03707/VAR for the variation of condition 2 to allow amendment to the detached garage. This was refused at planning committee and subsequently appealed. The appeal was allowed.

For context it is noted that a second application (23/02219/FUL) is currently under consideration at this site which proposes to utilise an existing agricultural access off the A488 for the dwelling with associated land use change from agricultural to residential. This is because the current access to Quercus Domus is via another dwelling's driveway and down the eastern elevation of the house. If the extension proposed is approved this will make the access route more difficult to navigate, although there will still be sufficient space for a vehicle, and it will not prevent access or be unsafe. Consideration of the new access does not form part of the assessment of this application however, where full consideration will be given when it is also determined at a future planning committee.

2.0 SITE LOCATION/DESCRIPTION

The application relates to a two storey (affordable) dwelling set to the west of a property called Romney House close to the junction of Pound Lane and the A488 in the western part of Hanwood to the South-West of Shrewsbury. The property shares an access with Romney House which is off Pound Lane and there are no other immediate neighbours.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

3.1 In accordance with the 'Scheme of Delegation' as the applicant indirectly reports to the Assistant Director of Place the application must be determined by planning committee.

4.0 Community Representations

A Site notice was displayed at the Site on the 20th April 2023

Pontesbury Parish Council

Well-designed extension with matching materials and the architectural details are in keeping with the existing house. However, the Parish Council notes the detailing over the sitting room French windows are out of character with the rest of the house. Pontesbury Parish Council are disappointed to note that there are concerns with having no landscaping plan or boundary treatment. The Parish Council recommend the boundary is post and rail with native hedging, as per the original plan to be more in character with surroundings, more than the existing unapproved close boarded fencing.

There has been local disquiet over the way that this development has proceeded which, whilst approved by planning appeals, nevertheless does not accord with the intention of affordable housing.

Officer Comments – The window and boundary treatment are not considered sufficient reasons in themselves to refuse the application.

5.0 THE MAIN ISSUES

Principle of development
Siting, Scale and Design
Other Issues

6.0 OFFICER APPRAISAL

Principle of Development

Given the history at the site there are no longer any planning conditions that limit the size of the dwelling, with the affordable status secured by the Section106.

This agreement will not change because of this application. Therefore, the proposal can only be assessed against the adopted policy which outlines a support for householder development provided it is appropriate in scale and of good design. Therefore, the development proposed is acceptable in principle.

Siting, Scale and Design

The development proposes a two-storey side extension which will be circa 4.6 metres in width with a gable end design to the principal elevation. The apex will be less than a metre lower than the existing highest roofline of the dwelling and will be discernible as an extension. It is recognised that the proposal will include some parts of the roof being raised and a resultantly grander appearing dwelling, however as a whole the design will be more coherent which is supported. The

extension is subservient with the site not being cramped or appearing overdeveloped.

As the property benefits from permitted development rights a side extension of the same width and up to 4 metres in height could potentially be achieved without planning permission. Consequently, the main consideration is the second storey component which is on balance considered acceptable.

Other considerations

The extension would not have any significant visual impact on the wider landscape.

The extension would not cause any significant harm to the amenity of the adjacent dwellings.

7.0 CONCLUSION

Householder development is supported in principle where the proposed extension is acceptable in its siting scale and design. It is recommended that the application is approved subject to standard conditions including compliance with the approved plans, and materials.

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.

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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:

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

MD2 – Sustainable Development

MD7B - General Management of Development in the Countryside

National Planning Policy Framework

RELEVANT PLANNING HISTORY:

13/01656/FUL Erection of a 2-bed affordable dwelling and detached double garage
GRANT 18th June 2014

13/01656/FUL for the erection of a 2-bed affordable dwelling and detached double garage
DISCHARGE APPROVED 25th November 2014

18/04951/VAR Removal of Condition No.8 (gross internal floor area) attached to planning
permission 13/01656/FUL - Erection of a 2-bed affordable dwelling and detached double
garage REFUSE 20th December 2018

23/02219/FUL Change of use of agricultural land to residential and reinstatement of
existing access PCO

Appeal

19/02711/REF Removal of Condition No.8 (gross internal floor area) attached to planning
permission 13/01656/FUL - Erection of a 2-bed affordable dwelling and detached double
garage ALLOW 6th June 2019

Appeal

22/03015/REF Variation of condition 2. to allow for amendments to the existing garage.
ALLOW 30th March 2023

1. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RT0LE2TDG7400>

List of Background Papers
Cabinet Member (Portfolio Holder) - Councillor Richard Marshall
Local Member
Cllr Roger Evans

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SCHEDULE OF APPEALS AS AT COMMITTEE 27th June 2023

LPA reference	22/03008/PMBPA
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Graeme Manton
Proposal	Change of use from agricultural to form two residential units
Location	Buildings At Catstree Bridgnorth
Date of appeal	16.01.2023
Appeal method	Written representations
Date site visit	28.03.2023
Date of appeal decision	04/05/2023
Costs awarded	
Appeal decision	Dismissed

LPA reference	17/01033/EIA
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr M Bower
Proposal	Erection of four poultry buildings incorporating air scrubbing units, with feed bins, one gate house, one boiler house and circular water tank; and associated infrastructure and landscaping scheme (amended description)
Location	Footbridge Farm Tasley Bridgnorth Shropshire WV16 5LZ
Date of appeal	07.06.2022
Appeal method	Hearing
Date site visit	
Date of appeal decision	05.05.2023
Costs awarded	
Appeal decision	Dismissed

LPA reference	22/02781/VAR
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Eagle Mews Ltd
Proposal	Application under Section 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to remove conditions no. 5(exterior details), 8(roofing materials), 9(roof windows), 10(masonry pointing), 11(render sample), 12(windows/doors/joinery), 13(historic features), 17(decorative scheme), 18(rainwater goods); and amend conditions no. 3(photographic survey), 4(work schedule), 15(finished appearance) - all pursuant of 21/02123/LBC
Location	The Eagles Inn 1 Harley Road Cressage Shrewsbury Shropshire SY5 6DF
Date of appeal	17.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	09.05.2023
Costs awarded	
Appeal decision	Dismissed

LPA reference	22/02425/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs S & J Husband
Proposal	Erection of one single storey dwelling with fully integrated solar roof; detached garage/car port
Location	Proposed Dwelling East Of The Tithe Barn Diddlebury Shropshire
Date of appeal	03.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	Dismissed
Costs awarded	
Appeal decision	15.05.2023

LPA reference	22/02748/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr And Mrs M Brown
Proposal	Change of use of land and the erection of caravan accommodation in association with an existing dog training business and alterations to existing vehicular access; including some demolition
Location	Clee Stangate Cottage Cleestanton Ludlow Shropshire SY8 3EL
Date of appeal	05.06.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/02972/CPL
Appeal against	Certificate not Lawful
Committee or Del. Decision	Delegated
Appellant	David Howard
Proposal	Application for a Certificate of Lawfulness for proposed conversion of existing detached garage into ancillary accommodation
Location	Coppice Cottage Knowlegate Ludlow Shropshire SY8 3AJ
Date of appeal	08.11.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	07.06.2023
Costs awarded	
Appeal decision	Allowed

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Appeal Decision

Site visit made on 28 March 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th May 2023

Appeal Ref: APP/L3245/W/22/3309699

Agricultural Buildings at Catstree, Bridgnorth, Shropshire WV15 5JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Graeme Manton, Apley Estate, against the decision of Shropshire Council.
 - The application Ref 22/03008/PMBPA, dated 27 June 2022, was refused by notice dated 23 August 2022.
 - The development proposed is described as 'Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to form two residential units'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development falls within the terms of the permitted development rights under Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), with specific regard to the extent of physical works proposed; and
 - if so, whether prior approval should be granted in respect of the noise impacts of the development, contamination risks on the site and whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

Reasons

Whether the proposal would be permitted development

3. The permitted development right under Article 3(1), Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO allows the change of use of an agricultural building and any land within its curtilage to a dwelling house together with building operations reasonably necessary to enable the conversion, subject to various limitations and conditions as set out in paragraphs Q.1 and Q.2 of that Class.
4. This appeal concerns three agricultural buildings arranged around a central courtyard within a wider farmstead. The buildings are constructed of a mix of

steel and timber frames, with corrugated sheeting to their roofs and masonry, brick and corrugated sheet elevations. They largely overlap one another in terms of their siting and layout, thus resulting in some sides remaining open to the adjacent barns and thus effectively creating one large footprint. There are no floor slabs within any building.

5. Paragraph 105 of the Planning Practice Guidance (PPG) states that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. The right permits buildings operations which are reasonably necessary to convert the building, which may include the installation or replacement of windows, doors, roofs and exterior walls.
6. To achieve the proposed conversion to two residential dwellings the buildings would require various alterations, to include the introduction of floor slabs, exterior walls, windows and a new roof. I acknowledge that much of this work may amount to building operations reasonably necessary to convert the building so as to function as a dwellinghouse.
7. However, the PPG goes on to state 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. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
8. Further to the provision of exterior walls where currently there are none, the proposal also includes demolition of the buildings to create courtyard and entrance spaces. Whilst partial demolition to carry out reasonably necessary building operations is encompassed by the right under Class Q, in this case the extent of demolition would be substantial and would also require the further introduction of extensive sections of new external walls.
9. I note the Structural Examination¹ identified that the barns were of reasonable condition and could be converted into residential accommodation with some strengthening works and minor repairs. The works to the roof structure would include strengthening of the trusses, rafters, purlins and columns. The detail surrounding the required strengthening works is further expanded upon in the Shire Consulting Rebuttal Note (September 2022) and associated documentation.
10. However, even if the strengthening works are minor in nature when considered in isolation, and whilst perimeter walls may remain, it seems to me that the frame of the existing buildings is nevertheless insufficient to bear the load of the proposed development. Further, as noted above, there would be extensive demolition and subsequent alteration to the layout of the buildings and their roof structure, so much so that the proposed development would no longer reflect the original form or layout of the existing buildings.
11. Taking these factors together leads me to conclude that the original collection of buildings is not already suitable for conversion to residential use as they only provide a modest amount of help for the proposal. The totality of works required goes well beyond what could be described as a conversion but rather is tantamount to a fresh build, as per Hibbitt². The proposal therefore fails to

¹ Report on Structural Examination, Shire Consulting, Document: S-22-249-S1-2, June 2022

² Hibbitt and Another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough

fall within the terms of the permitted development rights under Article 3(1), Schedule 2, Part 3, Class Q of the GPDO.

12. My attention has been drawn to other structural reports for developments in Shropshire which appear to have been considered against Class Q of the GPDO. However, based on this very limited information alone, I cannot make a fully reasoned comparison between the examples and the appeal proposal. Moreover, each case is determined on its own merits having regard to the particular set of circumstances.

Prior approval matters

13. Given my findings above, which lead me to dismiss the appeal, there is no need for me to go on to consider the prior approval matters subject of this appeal or the evidence submitted in support of these matters.

Conclusion

14. For the reasons set out above, and taking all other matters raised into account, I conclude that the proposal would not comply with the description of permitted development under the provisions of Class Q and therefore the appeal should be dismissed.

H Ellison
INSPECTOR

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Appeal Decision

Hearing held on 11 January 2023

Site visits made on 9 August 2022 and 12 January 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 May 2023

Appeal Ref: APP/L3245/W/21/3289216

Footbridge Farm, Tasley, Bridgnorth WV16 5LZ

- 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 Matthew Bower against the decision of Shropshire Council.
 - The application Ref 17/01033/EIA, dated 16 February 2017, was refused by notice dated 7 December 2021.
 - The development proposed is 4 No. poultry buildings and associated infrastructure.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Background

3. In September 2017 planning permission was granted, by Shropshire Council, for a similar development comprising poultry buildings. The decision was subsequently quashed in the Court of Appeal following a Judicial Review. I have paid regard to this judgement¹ insofar as it is material to the appeal development before me.

Main Issues

4. The main issues are:
 - The effect of the proposed development upon the living conditions of nearby occupiers and future development with regard to odour; and
 - The impact of the proposal upon the Thatchers Wood and Westwood Covert Site of Special Scientific Interest (SSSI) with regard to ammonia.

¹ Court of Appeal judgement *R(Squire) v Shropshire Council* [2019] EWCA Civ 888

Reasons

5. The appeal site comprises a rectangular parcel of land located to the rear of existing agricultural buildings at Footbridge Farm. The farm extends over some 720 acres and comprises arable land. The farm sits within a largely agrarian landscape on the western edge of Bridgnorth. Grade II listed dwelling - The Leasowes sits within extensive grounds and neighbours Footbridge Farm.

Living conditions of existing and future occupiers

6. The development is for four poultry units which would operate on a 48-day growing cycle, in which approximately 210,000 chicks would be brought into the buildings, reared for 38 days and then removed, leaving 10 days for the buildings to be cleaned and prepared for the next flock. There would be between 7 and 8 growing cycles a year. In the course of a year approximately 1,575,000 broiler chickens would be reared.
7. In contrast to the previous planning application the buildings would be fitted with air scrubber units and the waste produced by the livestock would be taken off site to an aerobic digestion plant operated by a third party.
8. I have paid regard to the appellant's Odour Assessment. There has been considerable debate regarding the odour assessment and the modelling underpinning its conclusions. I acknowledge that odour dispersal modelling is not an exact science and is based on a number of variables. However, I am not satisfied that as submitted it properly considers the odour effects of the proposed development.
9. The assessment fails to consider peak odour concentrations at the end of the growing cycle and during the clearing out of the poultry buildings. Moreover, limited explanation is provided for the input data selected and the methodology adopted. These factors combined with the absence of empirical evidence to support the assessment and conclusions leads me to determine that the odour assessment does not adequately model the impact resulting from the proposed development. Therefore, in my judgement, the conclusions reached in the assessment cannot be relied upon.
10. Further oral submissions were made by the appellant at the hearing in relation to the assessment. However, these submissions, in my view, fell some way short of addressing the matters above and were not sufficiently compelling to lead me to reach a different conclusion.
11. Taking the odour assessment as submitted it concludes that the 98th percentile hourly mean odour concentration resulting from the proposed development, taken at receptors outside of Footbridge Farm, would accord with the Environment Agency's benchmark figure for moderately offensive odours.
12. The nearest dwelling to the site is The Leasowes and whilst odour concentrations at the dwelling would accord with the benchmark figure, it is evident that part of the garden would experience odour concentrations in excess of this figure resulting in the occupiers experiencing offensive odours when outside.
13. Based on the evidence before me including my observations during the site visit it is apparent that the occupiers use a significant proportion of the grounds for recreational purposes including areas close to the boundary with Footbridge

Farm. In my view, odour resulting from the proposed development would be more apparent to the occupiers of The Leasowes, irrespective of the use of air scrubbers, unduly affecting their living conditions. Whilst the Council's Regulatory Services Officers did not raise concerns to the application this does not alter my findings in respect of this issue.

14. I am not satisfied that the odour assessment as submitted is sufficiently robust given the merits of the development proposed. Even if I were to take the assessment at face value it still demonstrates that odour resulting from the poultry sheds would unduly affect the living conditions of nearby occupiers.
15. Turning now to the living conditions of future occupiers - Bridgnorth is a principal settlement and is identified as a location for new development. Two parcels of land to the east of the site are allocated in the Site Allocations and Management of Development Plan (SAMDev) (2015) for employment and residential use, known as Tasley Gateway. The Council advised that a hybrid planning application has been submitted for development of the land although, at the time of the hearing, it is yet to be determined.
16. My attention was also drawn to the emerging Shropshire Local Plan which proposes a sustainable urban extension to Bridgnorth. It would include residential, town centre and employment uses referred to as the Tasley Garden Village (TGV). The appeal site falls within the TGV site. One of the requirements of the site allocation is that any poultry unit operating within the site will cease before occupation of the first dwelling.
17. The National Planning Policy Framework (the Framework), at paragraph 48, states that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation; the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the Framework.
18. The Council advises that the draft Local Plan has been submitted for examination, but that no hearing sessions have taken place, or any interim findings published in relation to the TGV.
19. The emerging Local Plan although not at a stage where it carries significant weight in my decision, still indicates an intention to deliver strategically significant development on the edge of Bridgnorth. The Council acknowledged it is yet to be determined how the cessation of any poultry operation would actually be secured.
20. Whilst it is not for me, as part of a Section 78 appeal, to come to a view on the local plan the approach towards the proposed development in the context of the TGV does not sit comfortably with me. I am mindful of paragraph 187 of the Framework, which states that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.
21. In this particular regard, if I was minded to allow the appeal, the poultry units would essentially gain "protection" under paragraph 187 of the Framework. It is not unreasonable to think that the appellant would be reluctant to give up his poultry operation given the time and capital that would be expended in establishing this element of his farm business. This would undermine the TGV which is clearly of strategic importance to the Council and the local community.

22. Therefore, there is a tension between the development proposed and the emerging local plan. The effect of allowing the appeal would, in my view, be two-fold. Firstly, it would undermine the local plan, TGV and the ambitions of the local community. Secondly, its operations would likely lead to the living conditions of future occupiers of the TGV being compromised. As such, I find that the proposed development would unduly affect future local development and its occupiers.
23. At the hearing interested parties expressed concerns regarding the Environmental Permit (EP), issued by the Environment Agency (EA) and how it related to the planning system. The EP would control the day-to-day management and operations at the poultry buildings and includes requirements for the recording of information and incidents. At the hearing it was established that the appellant's EP is limited in scope largely covering the operations taking place at the buildings and does not control activities outside of the permit area which includes the transfer of waste off site.
24. Waste is a by-product of intensive poultry farming but the transfer of it from the site to an aerobic digestion plant would be the responsibility of a third party whom themselves would be bound by the conditions of a separate EP.
25. I note the representations received, but in my view, given the nature of modern farming practices it is inconceivable that the appellant could plan comprehensively for every and all eventualities resulting from the proposed development, including Avian Flu. Nor is there any credible information before me to suggest that the appellant would not operate to Best Available Techniques or in accordance with the Code of Good Agricultural Policy.
26. The day-to-day operations taking place including the thinning out of the crop and transportation of waste from the site would be a matter for the EA. Incidents such as breakouts of Avian Flu would be a matter for the Department for the Environment, Food and Rural Affairs to effectively manage. I have not been provided with any credible evidence to indicate that the practices and regimes that these bodies have in place would not be appropriate to manage the direct and indirect effects of the proposed development.
27. The Framework, at paragraph 188, supports this by setting out that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). It also states that planning decisions should assume that these regimes will operate effectively.
28. Despite my observations regarding relationship between other regulatory regimes and the planning system I conclude that the proposed development, in land use terms, would adversely affect the living conditions of existing and future occupiers, with regard to odour. This would be contrary to Policies CS6 and CS17 of the Shropshire Core Strategy (2011) (CS) and Policy MD7b of the SAMDev which, amongst other things, require developments to safeguard residential and local amenity; the protection and enhancement of Shropshire's built environment and for agricultural development not to lead to unacceptable impacts on environmental quality and existing residential amenity.
29. It would also be contrary to paragraphs 130, 185 and 187 of the Framework which, amongst other things, require developments to function well and add to

the overall quality of the area; create places with a high standard of amenity for existing and future users; to be appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment and ensure that new development can be integrated effectively with existing businesses and community facilities.

Impact on Thatchers Wood and Westwood Covert Site of Special Scientific Interest

30. Thatchers Wood and Westwood Covert SSSI is located approximately 2.5km to the south-west of the site. The SSSI comprises a predominantly damp wood in the valley of Mor Brook with areas of dry rocky woodland on slopes in Westwood Covert. It is also designated as Ancient Woodland.
31. The release of ammonia is an inevitable consequence of intensive poultry farming and the proposed air scrubbers would reduce ammonia release into the atmosphere to levels deemed acceptable by the EA.
32. Despite the above it is evident that ammonia and nitrogen levels are already in excess of critical levels and loads at the SSSI thereby having an adverse impact upon it through eutrophication. In my view, the resultant pollutant levels would unacceptably result in the further degradation of the SSSI. Whilst benchmark ammonia levels have already been exceeded this is not justification to make an undesirable situation even worse.
33. I acknowledge that the Council's Ecologist and Natural England did not raise objections to the planning application, however, this does not alter my conclusion in relation to this matter.
34. As such, I conclude that the proposed development would adversely affect the Thatchers Wood and Westwood Covert SSSI by reason of ammonia concentration. It would be contrary to CS Policies CS6 and CS17 and SAMDev Policy MD12 which, amongst other things, require developments to protect, restore, conserve and enhance the natural environment, safeguarding natural resources and not to have a significant adverse impact on Shropshire's environmental assets.
35. It would also be contrary to Paragraphs 174 and 180 of the Framework, which amongst other things, requires planning policies and decisions to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils in a manner commensurate with their statutory status or identified quality in the development plan.

Other Matters

36. I note the representations made by local residents raising additional concerns. However, given my findings on the main issues, it is not necessary for me to consider these matters in detail.

Conclusion

37. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matthew Bower	Appellant
Ian Pick	Ian Pick Associates Ltd
Steve Smith	AS Modelling & Data Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Kelvin Hall
Daniel Corden

INTERESTED PARTIES:

David Barker
Andy Boddington
Dr Michael Bull
David Cooper
Chris Edwards
George Edwards
Dr Sam Fowles
Dr John Jenkins
Nigel Lumby
Amea Plimmer
Nicola Squire

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Appeal Decision

Site visit made on 11 April 2023

by **Paul Griffiths BSc(Hons) BArch IHBC**

an Inspector appointed by the Secretary of State

Decision date: 9th May 2023

Appeal Ref: APP/L3245/Y/22/3306565

The Eagles Inn (Former), 1 Harley Road, Cressage SY5 6DE

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period on an application to vary conditions of a listed building consent.
 - The appeal is made by Eagle Mews Ltd against the decision of Shropshire Council.
 - The application Ref.22/02781/VAR, dated 30 June 2022, sought to remove or vary a series of conditions attached to listed building consent Ref.21/02123/LBC, granted on 16 December 2021.
 - The works proposed were described as 'internal alterations in association with conversion of former public house to two residential dwellings'.
 - The conditions in dispute are Nos.3, 4, 5, 8, 9, 10, 11, 12, 13, 15, 17, and 18.
 - The reasons for the conditions, in general terms, relate to the need to safeguard the special interest of the listed building.
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Preliminary Matters

1. The Eagles Inn dates from the late 16th or early 17th Century and was extended and altered in the 19th and 20th Centuries. It was built as a dwelling before becoming a Public House and was recently added to the Statutory List as a Grade II listed building. In December 2021, the Council granted planning permission (Ref.21/02078/FUL) and listed building consent (Ref.21/02123/LBC), for the conversion of the building to two dwellings. The conditions attached to the latter are the subject of this appeal.
2. It is necessary at the outset to address the question of the description of the works that were permitted by the grant of listed building consent. As set out above, the Council's decision notice describes them as: *internal alterations in association with conversion of former public house to two residential dwellings*. Notwithstanding the reference to 'internal alterations', it is clear from the plans that formed part of the application that the works for which consent was sought also included some significant external alterations and additions.
3. The Council acknowledges that their description of the works was not as comprehensive as it might have been. However, the Council's grant of consent must be seen in the context of the application, and the plans. Indeed, the appellant has proceeded on the basis that listed building consent has been granted for the external works because they are shown on the plans. In my view, that must be the correct interpretation.
4. It must follow that if consent has been granted for the external works, then there can be nothing unreasonable, in principle, about the conditions applied by the Council that relate to those external works.

5. Notwithstanding that conclusion, the solution to this question is, I believe, a simple one. Section 19(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) sets out that any person interested in a listed building with respect to which listed building consent has been granted subject to conditions may apply to the local planning authority for the variation of the conditions. The originating application was made on that basis.
6. Section 19(4) of the Act makes plain that on such an application, the local planning authority or the Secretary of State may vary the conditions attached to the consent and may add new conditions consequential upon the variation as they think fit.
7. Appeals are dealt with in section 20 of the Act. Section 22 deals with determination of appeals. Section 22(1) says that the Secretary of State (or those acting on their behalf) may allow or dismiss an appeal under section 20 or may reverse or vary any part of the authority's decision (whether or not the appeal relates to that part), and (a) may deal with the application as if it had been made to them in the first instance.
8. What that means is that the original decision is before me in its entirety. On that basis, it is within my powers to adjust the description of the works in order to deal with the difficulty, such as it is, that has arisen from the manner in which the Council approached it.
9. I therefore intend to deal with the appeal on the basis that consent is sought for: *alterations and additions in association with the conversion of a former public house to two dwellings*. Given that that was the basis of the original application for listed building consent, and the plans and details submitted with it, I can do that without causing any unfairness to either main party, or indeed anyone else. It seems to me the most pragmatic way forward.
10. As referred to above, there is a parallel grant of planning permission (21/02078/FUL) for the conversion of former public house to two dwellings; and associated works which repeats several of the conditions that are subject to the appeal before me.
11. Be that as it may, I have dealt with the appeal before me on its own merits recognising that it is open to the appellant to make an application under s.73 for a new grant of planning permission for the proposal. My decision herein would, I imagine, be a significant material consideration in any determination.

Decision

12. The appeal is allowed, and the listed building consent Ref.21/02123/LBC granted on 16 December 2021 by Shropshire Council is varied by changing the description of the works to *alterations and additions in association with the conversion of a former public house to two dwellings*, deleting condition Nos.1-18 inclusive, and substituting for them the following conditions:
 - 1) The works authorised by this consent shall begin no later than three years from the date of this consent.
 - 2) No works shall commence until a Level 3 photographic survey of the interior and exterior of the building (as defined in *Understanding Historic Buildings: A Guide to Good Recording Practice*) has been submitted to and approved in writing by the local planning authority.

- 3) No works involving external services shall commence until details of all new external services (including but not limited to soil and vent pipes, waste pipes, boiler flues, ventilation terminals, meter boxes, cabling, electrical fittings and rainwater goods) have been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.
- 4) No works involving internal services shall commence until details of internal service runs have been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.
- 5) No works to the stone boundary wall, proposed to be reduced in height, shall take place until details of the lowered wall, including its parapet/capping detail and mortar mix and colour, have been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.
- 6) No works to the roof shall take place until details of any new roofing materials, and associated ventilation fittings, have been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.
- 7) Before its installation, details of the replacement of the first-floor projecting roof-light shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.
- 8) No works of re-pointing shall take place until details of that re-pointing have been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.
- 9) No works of re-rendering shall take place until details of that re-rendering have been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.
- 10) No works involving external joinery shall take place until details of all new windows, doors, porches, and any other new external joinery, including finishes, have been submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.

Main Issue

13. I should make clear at this juncture that because the original decision of the Council is before me in its entirety, the question of whether listed building consent should actually be granted for the works proposed is before me. That said, I see no good reason to question the grant of consent. I am content that, subject to conditions, the works proposed to the listed building, seen in the context of bringing it back into use, need not be harmful to its special architectural or historic interest. In that way, the works do not offend section 16(2) of the Act. As a result and having set out above my approach to the description of the works, I intend to confine myself to the conditions attached to the original grant of consent including, for reasons that will become clear, those not in dispute.

14. Paragraph 56 of the National Planning Policy Framework (the Framework) says that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.
15. Obviously, this statement of Government policy refers to the use of conditions in the context of a grant of planning permission for development. However, the 'tests' therein seem to me to be similarly applicable to conditions attached to grants of listed building consent for works.
16. As a result, the main issue in this case is whether the conditions attached to the original grant of listed building consent, meet these 'tests'.

Reasons

17. I will begin by addressing the conditions disputed by the appellant.

Condition 3

18. This condition requires the provision of a photographic survey of the interior and exterior of the building, for the approval of the Council before any development commences. The position of the appellant is that because the Council changed the description of works to cover internal alterations and additions only, then the condition should reflect that, and the reference to the exterior of the building should be removed. However, as set out above, I am able to change the description of works to ensure that the external works are covered by the grant of consent.
19. Paragraph 205 of the Framework does say that local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence publicly accessible. In that context, I can see the justification for the condition and consider it reasonable to require a proportionate (in the words of the Framework), preliminary photographic survey to be carried out.
20. That said, condition 3 is inaccurate, and thereby imprecise, in its reference to 'before any development commences'. Listed building consent is granted for *works* rather than *development* so condition 3 needs adjustment to reflect that.

Condition 4

21. Condition 4 requires the submission of a schedule of building works to be submitted for the approval of the local planning authority before works commence with all works being required to be carried out in accordance with the approved schedule, and all existing original features to be retained unless shown to be removed on the approved plans. The appellant makes the point that this condition should be adjusted to reflect that the grant of consent was for internal works.
22. I have addressed that matter above and the same principles would apply. However, it is my view that there is a more fundamental difficulty with this condition. As set out above, the grant of consent needs to be seen in the context of the application, and the associated plans.

23. In that context, I do not see the purpose of a condition requiring a further schedule of building works. If unforeseen works turn out to be required in the course of converting the building, for whatever reason, then a further grant of listed building consent would be required for them. Similarly, if original features that are intended to be retained as part of the proposal need to be removed then again, a further grant of listed building consent would be required for these works.
24. A condition cannot lawfully circumvent those requirements and as such, it is my view that condition 4, as applied to the original grant of consent, is both unnecessary, and unreasonable. It must, therefore, be removed.

Condition 5

25. External services are the subject of condition 5. The appellant suggests that this condition should be removed because the repair of existing services, or their replacement with matching fittings, would not need listed building consent. That is correct, as far as it goes, but what is proposed here is the conversion of a public house to two dwellings. Details of external services are not shown on the plans and elevations and there are bound to be meter boxes, boiler flues, external lighting, and so forth needed to facilitate the conversion.
26. In the context of a grant of listed building consent for that conversion, it seems to me necessary to allow for some control to be exerted over the details of any external services to ensure that they can be installed in a way that does not cause undue harm to the special interest of the building.
27. In essence, then, condition 5 is necessary. However, it would function more effectively if it was widened in scope to include any and all external services, including rainwater goods. Moreover, the implementation clause needs to be changed to refer to works rather than development. On that overall, basis, I intend to vary condition 5.

Condition 8

28. Condition 8 deals with roofing materials and attendant fittings. The plans describe what is proposed as *remove roof covering; replace leadwork, felt and re-tile roof using matching plain tiles*. The appellant argues that this operation would not constitute works as, with reference to Section 7 of the Act, it would not affect the character of the building as one of special architectural or historic interest.
29. There is some force in that argument provided that what took place in relation to the roof was limited to that. However, I have my doubts about whether it could be. If the condition was removed on the basis the appellant suggests, then it seems to me that the appellant might be put in a difficult position if, for example, roof ventilation fittings, needed to be installed. They might well need a further grant of listed building consent.
30. In the context of what is a conversion, where unforeseen difficulties might arise in relation to the roof, and applying a degree of pragmatism, it seems to me that it is in everyone's best interests for condition 8 to remain. However, it needs to be adjusted to reflect the fact that like-for-like replacement of roof tiles and/or leadwork would not constitute works. The implementation clause also needs to be changed to refer to works rather than development.

Condition 9

31. The proposal includes five new replacement roof-lights. In the light of what I have said above about changing the description of the works to cover internal and external alterations, these clearly form part of the works of conversion. Condition 9 requires details of the roof-lights to be submitted for the approval of the local planning authority and for installation to take place in accordance with the approved details.
32. The plans say that in four cases, what would be installed are black conservation roof-lights from the Roof-Light company. In my view, roof-lights of this specification would be acceptable, and the information provided is sufficient to obviate the need for any further details to be submitted for approval.
33. However, the remaining roof-light is a different matter. What is proposed, according to the plans, is for a first-floor projecting roof-light to be replaced with a conservation roof-light flush with the roof-scape. No further details of how that would be achieved have been provided. A condition is therefore necessary to secure those further details and ensure that the replacement can take place without harm to the special interest of the listed building. Condition 9 needs to be adjusted to reflect that.

Condition 10

34. Condition 10 addresses pointing and/or re-pointing requiring details to be submitted for approval, though I would add that the condition, as applied, does not require the pointing or re-pointing to be carried out in accordance with the approved details.
35. The only reference to pointing/re-pointing on the plans is in relation to the chimneys. No further details are given but if it is done with sufficient care, in relation to the mortar mix, and attention to detail, and the finish of the pointing (for example whether it is flush or recessed), then re-pointing the chimneys need not affect the character of the building as one of special architectural or historic interest. In that way, the re-pointing would not constitute works and condition 10 could be seen as superfluous and removed. However, if in carrying out the re-pointing referred to on the plans, the level of care and attention to detail is a little wanting, then it may affect the character of the building as one of special architectural or historic interest and constitute works.
36. In the absence of any further details of the re-pointing proposed, or of the manner in which the existing pointing to the chimneys has been carried out, then it is in my view prudent to apply a condition requiring details of what is proposed to be submitted to and approved by the local planning authority. Condition 10 needs to be adjusted however, because in the form drafted it is too restrictive and lacks an implementation clause. It is also necessary to make provision for the fact that areas of masonry beyond the chimneys might need re-pointing too.

Condition 11

37. This condition relates to the re-rendering proposed to the exterior of various elements of the building, as shown on the plans. Given what I have set out above about changing the description of the works to include external works as well as internal, this is very clearly something that falls to be considered.

38. The principal area of re-rendering, on the west elevation of the building, would replace an area of existing tile-hanging. This operation would clearly affect the character of the building as one of special architectural or historic interest and thereby constitute works.
39. No details of the re-rendering proposed, beyond what is shown on the plans, have been put forward. In that context, it is important for the local planning authority to be able to control the nature of the re-rendering and its finish to ensure that the works cause no harm to the special interest of the listed building. However, condition 11 is quite specific in its requirements, particularly in relation to the 'sample panel'. To my mind, it would be sufficient for the condition to require 'details of the re-rendering' to be submitted for approval. That would make possible a more proportionate approach.

Condition 12

40. This condition refers to new external doors and windows and other new external joinery. The plans make reference to several new windows and doors, and there are new porches too. There are no details beyond what is shown on the plans. If the description of the works is changed to include external as well as internal works then in principle, it is reasonable for the Council to be able to exert some control over the design and finish of these elements.
41. I take the point that some of the existing windows that are scheduled for replacement are uPVC. However, it appears that these windows were in place when the building was added to the statutory list. Although replacing these uPVC windows with hardwood windows would on the face of it be an improvement, the operation would still affect the character of the building as one of special architectural or historic interest. The alteration would therefore be works and as such, it is important that the details of the new windows are properly considered.
42. That said, I do have some issues with the wording of condition 12 as drafted because it is rather prescriptive. I will adjust the condition so that it acts in a more proportionate way.

Condition 13

43. Condition 13 requires all existing features of (special) architectural and historic interest to be retained in-situ and fully protected during the approved works.
44. The scope of the works is as shown on the plans. If an existing feature that is meant to be retained is removed, then that would constitute works for which consent would be required. If the removal took place without consent then it would be possible for the Council to take enforcement action. Similarly, if an existing feature of special interest is damaged in the course of the conversion works then again, then that would be a failure on the part of those carrying out the works and the Council would be able to take action. In that context, the condition is unnecessary and can be removed.

Condition 15

45. This condition requires all new external and internal work and finishes, and work of making good, to match existing original work adjacent, except when shown to be different on the plans. In the context of the changed description of the works, the inclusion of a reference to external as well as internal works is

no difficulty. More fundamentally though, the condition is unnecessary because any new external or internal interventions not shown on the plans, including making good, would constitute works if they were not carried out in matching materials and methods. As a result, condition 15 serves no purpose.

Condition 17

46. Condition 17 seeks the submission of details of proposed decorative finishes and colour scheme to be submitted for approval. The Council suggests that this condition is meant to require details of the proposed porches and hard surfacing (patios). If that is the case, then the condition as applied is imprecise, to say the least. Details of porches, including finishes, are covered by the Council's condition 12. The hard surfacing to form patios is not something that would affect the character of the building as one of special architectural or historic interest and in the context of a conversion of the building to dwellings, it is something that can be left to the developer and/or occupiers. As a result, condition 17 is unnecessary and can be removed.

Condition 18

47. This condition requires all gutters, downpipes soil and vent pipes and other external plumbing to be formed in cast iron or cast aluminium. There is no reference on the plans to rainwater goods. From what I saw, there is quite a mixture in place currently, with metal guttering of some vintage, and some more modern, in terms of design and materials. The building was added to the Statutory List with that mixture in place.

48. In that context, it seems to me onerous, and unreasonable for the Council to require all new external plumbing to be formed in cast iron and aluminium – it might be preferable, but the 'betterment' it entails is not necessary to make the conversion proposed acceptable. That said, it is my view that some control needs to be exerted over this aspect of the works. However, this can be achieved through the condition that addresses external services (the Council's condition 5, my new condition 3).

The Conditions not in Dispute (1, 2, 6, 7, 14 and 16)

49. I will deal with these in turn. Condition 1 deals with implementation. However, it is inaccurate in that it refers to the commencement of development rather than works. It needs to be adjusted to suit.

50. Condition 2 requires all works to be carried out in complete accordance with the terms of the application and approved plans. Conditions of this sort have been applied to grants of planning permission for some time in order to allow for subsequent applications for minor material amendments. There is no parallel facility in relation to grants of listed building consent.

51. Further, section 7 of the Act makes plain that no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised. The terms of the listed building consent granted in this case are based on the particulars of the application and the submitted plans.

52. As section 8 of the Act says works for the alteration or extension of a listed building are authorised if (a) written consent for their execution has been

granted by the local planning authority or the Secretary of State (including those acting on their behalf); and (b) they are executed in accordance with the terms of the consent and of any conditions attached to it.

53. It is therefore clear that if the appellant, or indeed anyone else, carries out works to the listed building that go beyond the terms of the grant of listed building consent, terms that include the plans and other particulars, then they would be in breach of section 7, and as a result, in breach of section 9 of the Act that deals with offences. Against that overall background, condition 2 is of no utility and can be removed.
54. Condition 6 requires details of all routes for internal mechanical and electrical services and drainage to be submitted to and approved in writing by the local planning. I can see the necessity for that given that new kitchens and bathrooms are proposed as part of the proposed conversion, without details of how they will be serviced being provided. I strongly suspect that rewiring will be involved too.
55. The first difficulty with the condition as drafted is that it requires development to be carried out in accordance with the approved details rather than works. Second, I consider 'mechanical and electrical services' to be too specific in its phrasing. There may be internal runs required for services that do not meet either definition. As such, condition 6 requires adjustment.
56. Works to the stone boundary wall to meet highways requirements are the subject of condition 7. In the absence of details on the plans, I can see the necessity for these works to be made subject to the approval of the Council. However, the implementation clause needs to refer to works rather than development.
57. Condition 14 requires all new partitions and other elements of new construction to be scribed around rather than cut into architectural features. To my mind, that is simple good practice and if features of this sort were damaged in the course of carrying out the conversion, then the Council could take action. Condition 14 is unnecessary.
58. Finally, condition 16 is intended to secure a record of any features of special interest that might be uncovered in the course of the works and affected. It seems to me though that if any previously unknown features were uncovered, any effect upon them would not be covered by the grant of listed building consent. Works to them would need a separate grant of consent in order to avoid breaches of sections 7 and 9 of the Act. As such, condition 16 is unnecessary.

Conclusion

59. On that overall basis, I intend to allow the appeal and vary the grant of listed building consent accordingly.

Paul Griffiths

INSPECTOR

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Appeal Decision

Site visit made on 11 April 2023

by **Paul Griffiths BSc(Hons) BArch IHBC**

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

Decision date: 15th May 2023

Appeal Ref: APP/L3245/W/22/3305288

The Tithe Barn, Diddlebury, Shropshire SY7 9DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs S & J Husband against the decision of Shropshire Council.
 - The application Ref.22/02425/FUL, dated 23 May 2022, was refused by notice dated 8 August 2022.
 - The development proposed is a two bedroom, single-storey, self-build, downsizing dwelling.
-

Decision

1. The appeal is dismissed.

Main Issue

2. This is whether the proposal accords with the approach of the development plan to new housing and if not, whether there are any material considerations that would indicate otherwise.

Reasons

3. The development plan for the area includes the Shropshire Local Development Framework: Adopted Core Strategy of March 2011 (CS) and the Shropshire Council Site Allocations and Management of Development Plan adopted in December 2015 (SAMDev). In order to provide for sustainable patterns of development, CS Policy CS5 strictly controls development in the countryside. In policy terms, Diddlebury is considered to be in the countryside. While CS Policy CS5 does not explicitly rule out the provision of 'open market' housing in the countryside, SAMDev Policy MD7a directs its provision towards larger settlements, allowing for local exception site dwellings and residential conversions in the countryside only.
4. It is said that the proposed dwelling would be 'self-build' and intended to allow the occupants of the Tithe Barn to downsize to future-proofed, and accessible accommodation. However, self-build legislation does not provide carte-blanche for new housing in unsuitable locations. Moreover, the Council's Type and Affordability of Housing SPD (2012) and their Build Your Own Affordable Home Information Pack (2016), highlighted by the appellant, concern themselves with the provision of affordable housing. There is nothing before me that would enable the dwelling at issue to be considered as affordable housing, for the purposes of the development plan, or as defined in the National Planning Policy Framework (the Framework).

5. In that overall context, the proposal has to be considered to be 'open market' housing. As such it would fall contrary to SAMDev Policy MD7a, what I regard as the intention behind CS Policy CS5, and the approach of the development plan as a whole to new housing in the countryside.
6. On top of that, the proposal would sit at the heart of the Diddlebury Conservation Area, near a number of listed buildings, including the Church of St Peter (Grade II*), the Parish Room (Grade II), Glebe Farmhouse (Grade II), Church Cottage (Grade II), and the War Memorial (Grade II). The appellant suggests that the design and location of the proposed dwelling would allow it to fit into its surroundings in such a way that it would avoid harm to the setting of these listed buildings and preserve the character and the appearance of the conservation area.
7. I do not share that view. Save for the Village Hall, the heart of the village is dominated by these buildings of traditional form, and their relationship with each other is a significant contributor to both the character, and the appearance, of the conservation area. The proposal would insert a building of non-traditional form into that mix, that would be plainly visible from the road and areas around the Church.
8. There are times when a mixture of old and new can be pleasing, but from what I saw, the heart of Diddlebury is very sensitive to change. With that in mind, I take the view that the visual presence of the proposed dwelling would be incongruous and would undermine the coherence of the traditional grouping of listed buildings at the heart of the village.
9. The setting of the listed buildings would be harmed as a result, and there would be a failure to preserve both the character, and the appearance, of the conservation area. That provides a strong presumption against a grant of planning permission for the proposal and brings it into conflict with SAMDev Policy MD13. In Framework terms, the harm to the significance of these designated heritage assets would be 'less than substantial' but the public benefits of one 'open market' dwelling are nowhere near sufficient to outweigh that harm.
10. Concerns have also been raised about the potential impact of the proposal on the existing hedgerow that separates the site from the Village Hall. The planting provides a strong boundary that dilutes the impact of the Village Hall on the heart of the settlement and would provide some screening for the proposed dwelling. It is an important feature, therefore, but I am content that the separation between the proposed dwelling, and the hedgerow, would be sufficient to allow conditions to be imposed on any grant of planning permission that would ensure that the hedgerow could be properly protected in the course of construction work.
11. Bringing those points together, the proposal is very clearly contrary to the approach of the development plan to new housing and moreover, it would cause unjustified harm to the significance of designated heritage assets. There are no material considerations that would support a decision contrary to the development plan. On that basis, the appeal is dismissed.

Paul Griffiths

INSPECTOR



Appeal Decision

Site visit made on 2 June 2023

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 June 2023

Appeal Ref: APP/L3245/X/22/3309076

Coppice Cottage, Knowlegate, Ludlow, Shropshire SY8 3AJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development.
 - The appeal is made by Mr David Howard against the decision of Shropshire Council.
 - The application ref 22/02972/CPL, dated 28 June 2022, was refused by notice dated 10 August 2022.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is described as the proposed conversion of existing detached garage into ancillary accommodation.
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development (LDC) describing the proposed use which is found to be lawful.

Preliminary Matters

2. An application under S192(1) of the Town and Country Planning Act 1990 (as amended) (the 'Act') seeks to establish whether (a) any proposed use of buildings or other land; or (b) any operations proposed to be carried out in, on, over or under land, would be lawful. Notwithstanding the description of the proposed development refers to the conversion of the garage into ancillary accommodation, the application submissions detail proposed external and internal alterations to the building. Thus, I have considered the appeal both in terms of the proposed use of the building and the proposed alterations.
3. Section 192(2) sets out that if on application under this section, the local planning authority is provided with information satisfying it that the use or operations described in the application would be lawful if instituted or begun at the time of the application, it shall issue a certificate to that effect.
4. For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The onus is firmly on the appellant to make out their case, on the balance of probabilities. The decision is based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.

Main Issue

5. This is whether the Council's decision to refuse the LDC was well founded. This turns on whether the proposed works and use of the existing detached garage for ancillary accommodation would be lawful.

Reasons

6. The Council's appeal submissions state that the proposed development does not constitute permitted development by virtue of the provisions of Schedule 2, Part 1, Class E(d), (e), (f) and E.3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 'GPDO'). This class confers permitted development rights for 'the provision within the curtilage of the dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building...'. The Council further considers that the building, being beyond the wall of the dwellinghouse and fronting the highway, would have failed to meet (c) of Class 1 of the 1977 Order which it is said was in place at the time the garage was built.
7. The appeal building was the subject of a planning permission granted in 1985 (ref SS/1985/91/P) and already exists. I could see at my site visit it has been in existence for a considerable period and is currently used for domestic storage. I have no evidence that the building is not lawful. Whether it would be lawful to use it for purposes in association with the residential use of the main dwellinghouse is dependent on whether the proposal would be considered to be development.
8. Section 55(1) of the Act sets out that "development" means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. Section 55(2) sets out that certain operations or uses of land shall not be taken for the purposes of the Act to involve development of the land, including (a) the carrying out for the maintenance, improvement or other alteration of any building of works which – (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building.
9. It is not disputed that the primary use of Coppice Cottage is that of a single dwellinghouse. The proposal is for the conversion of the detached garage to additional residential accommodation for family members in association with the residential use of the host dwelling. To facilitate the proposed use, works are proposed both internally and externally. Internally, the proposed conversion would provide space for a workshop, utility room, kitchen area and bathroom at ground floor level and a living and bedroom area on the first floor. The internal works would not amount to development under the provisions of s55(2)(a)(i) of the Act.
10. External alterations to the appeal building are proposed by way of replacing one of the garage doors on the front elevation with a pedestrian door and infilling with stonework to match the existing, and the blocking up of an entrance doorway on the side elevation. The garage would remain otherwise unaltered externally. Whether or not alterations to the exterior of a building fall within development will involve consideration of the change to the external appearance of the building as a whole and not a part in isolation. The degree of visibility by an observer outside the building; the nature of the building; and the nature of the alterations/works are all considerations.
11. The garage is set back from the road and partly obscured from view by existing boundary vegetation, its orientation and the sharp bend in the road. The proposed works to the exterior would be minor alterations and would retain its appearance and character as a modest detached outbuilding. In consideration

of the above, I find that the proposed operations would not materially affect the external appearance of the building. Therefore, the proposed external works would not amount to development as set out by s55(2)(a)(ii) of the Act.

12. The appeal building would be provided with electricity, water and drainage and these would be connected to the house which sits immediately to the side of the garage. Access to the building would be via the existing drive for the house, and both would share the garden area which surrounds the house. The appeal building would not have a separate curtilage. Although the building would contain facilities for day-to-day living, it would have a close physical and functional relationship with the main dwelling. That use, as a matter of fact and degree, would not be incidental due to the provision of primary living accommodation, and thus the provisions of Part 1, Class E of the GPDO are not applicable.
13. The garage would be used for residential purposes as part and parcel of the primary use of the planning unit as a single dwellinghouse. The proposed use would be an integral part of the ordinary residential use of the dwellinghouse and, provided that the planning unit remains in single family occupation, it would not, as a matter of fact and degree, result in a material change of use in the overall character of the use of the land. As such, its proposed use for the provision of additional living space within the same planning unit as the dwellinghouse would not amount to development as defined by s55 of the Act. The development as proposed would have been lawful on the date of the application and express planning permission would not have been required.

Conclusion

14. For the reasons given above and having regard to all other matters raised, I conclude that the Council's deemed refusal to grant an LDC in respect of the proposed conversion of the existing detached garage into ancillary accommodation was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in s195(2) of the 1990 Act as amended.

S A Hanson

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 28 June 2022 the development described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed conversion of the detached garage into ancillary accommodation (not used independently from the main house) would be functionally connected to and form part and parcel of the primary use of the land as a single dwellinghouse. It would not give rise to a material change of use of the planning unit and the internal and external operations to facilitate the use would not constitute development as defined by section 55 of the Act.

Signed

S A Hanson

INSPECTOR

Date: 7 June 2023

Reference: APP/L3245/X/22/3309076

First Schedule

Proposed conversion of existing detached garage into ancillary accommodation

Second Schedule

Land at: Coppice Cottage, Knowlegate, Ludlow, Shropshire SY8 3AJ

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 7 June 2023

by **S A Hanson BA(Hons) BTP MRTPI**

Land at: Coppice Cottage, Knowlegate, Ludlow, Shropshire SY8 3AJ

Reference: APP/L3245/X/22/3309076

Scale: Not to scale

