

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

Date: Monday, 13 May 2024

**Committee:**  
**Southern Planning Committee**

**Date:** Tuesday, 21 May 2024  
**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](mailto: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**

Roy Aldcroft  
Joyce Barrow  
Gwilym Butler  
Rachel Connolly  
Cecilia Motley  
Nigel Hartin  
Kevin Pardy  
Colin Taylor  
Claire Wild  
Paul Wynn

Your Committee Officer is:

**Tim Ward** Committee Officer

Tel: 01743 257713

Email: [tim.ward@shropshire.gov.uk](mailto:tim.ward@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive any apologies for absence.

## 2 Minutes (Pages 1 - 6)

To confirm the minutes of the Southern Planning Committee meetings held on 16 April 2024 and 9 May 2024

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 16 May 2024

## 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 Shaw Lane Albrighton Shropshire (23/02095/OUT) (Pages 7 - 48)

Outline planning permission for up to 90 dwellings, to include access only. (Revised description)

## 6 Brick House Farm Greete Ludlow Shropshire SY8 3BZ (24/00764/VAR) (Pages 49 - 66)

Variation of Condition 2 (approved plans) and removal of Condition 17 (food production) of planning permission No. 22/02565/FUL

## 7 Proposed Residential Dwelling South Of Plealey Shrewsbury Shropshire (24/00121/FUL) (Pages 67 - 86)

Erection of a detached dwelling and conversion of Dutch barn to form garage/garden store

## 8 Schedule of Appeals and Appeal Decisions (Pages 87 - 130)

## 9 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 June 2024 in the Shrewsbury Room, Shirehall.

## **10 Exclusion of Press and Public**

To consider a resolution under Section 100 (A) of the Local Government Act 1972 that 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.

## **11 Planning Enforcement Annual Report (Pages 131 - 150)**

The exempt report of the Assistant Director of Economy and Place is attached

Contact Tracy Darke [Tracy.Darke@shropshire.gov.uk](mailto:Tracy.Darke@shropshire.gov.uk)



## Committee and Date

Southern Planning Committee

21 May 2024

## **SOUTHERN PLANNING COMMITTEE**

**Minutes of the meeting held on 16 April 2024**

**2.00 - 3.10 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND**

**Responsible Officer:** Tim Ward

Email: tim.ward@shropshire.gov.uk      Tel: 01743 257713

### **Present**

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

### **66 Apologies for Absence**

Apologies for absence were received from Councillors Andy Boddington and Richard Huffer

### **67 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the South Planning Committee held on February 20 2024 be approved as a correct record and signed by the Chairman.

### **68 Public Question Time**

No public questions had been received

### **69 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.

There were no interests declared

### **70 Concord College Acton Burnell Shrewsbury Shropshire SY5 7PF (23/04725/FUL)**

The Senior Planning Officer introduced the application which was an application for the erection of boarding house with staff accommodation, associated landscaping and parking and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location and layout. The Senior Planning Officer confirmed that members had conducted a site visit and drew members attention information set out in the schedule of late presentations.

Councillor Paul Harrison spoke on behalf of Acton Burnell, Frodesley, Pitchford, Ruckley and Langley Parish Council in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

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

Members felt that the design, siting and landscaping were acceptable and that the development would not have an adverse effect on the heritage of the area.

**RESOLVED:**

That in accordance with the Officer recommendation permission be granted subject to the conditions set out in appendix 1 with delegation given to officers to confirm the final wording of conditions

**71 Oak Farm Claverley Wolverhampton Shropshire WV5 7AE (23/04940/FUL)**

The Planning Consultant introduced the application which was an application under Section 73A of the Town and Country Planning Act 1990 for the erection of agricultural buildings and operational development and with reference to the drawings and photographs displayed, he drew Members' attention to the location and layout. The Planning Consultant confirmed that members had conducted a site visit and drew members attention information set out in the schedule of late representations.

Councillor Richard Cotham spoke against the application on behalf of Claverley Parish Council in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Councillor Colin Taylor spoke as the local member in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

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

Members commented that the design and construction of the buildings was acceptable and asked that a condition requiring that details of visibility splays and other highways matters were submitted for approval.

**RESOLVED:**

That in accordance with the Officer recommendation permission be granted subject to the conditions set out in appendix 1 with delegation given to officers to confirm the final wording of conditions including an additional condition to ensure that details of visibility splays and other highways matters are submitted for approval.

**72 The Lodge Huffage Farm Woundale Bridgnorth Shropshire (24/00390/VAR)**

The Senior Planning Officer introduced the application which was an application for the erection of a retail unit and associated works and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location and layout.

Councillor Colin Taylor spoke as the local member in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

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

Members welcomed the proposal which would enable to ongoing needs of the occupants to be accommodated. Following a question the Senior Planning Officer confirmed that the affordability value would be based on the original size rather than the amended size.

**RESOLVED:**

That in accordance with the Officer recommendation delegated authority be given to Officers to secure a Deed of Variation to the Section 106 Agreement to ensure that the dwelling would remain affordable in perpetuity and grant permission subject to the conditions as set out in Appendix 1

**73 Schedule of Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the southern area as at 16 April 2024 be noted.

**74 Date of the Next Meeting**

**RESOLVED:**

That it be noted that the next meeting of the Southern Planning Committee will be held at 2.00 pm on Tuesday 21 May 2024 in the Shrewsbury Room, Shirehall.

Signed ..... (Chairman)

Date: .....

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# Public Document Pack



<u>Committee and Date</u>
Southern Planning Committee
21 May 2024

## SOUTHERN PLANNING COMMITTEE

### Minutes of the meeting held on 9 May 2024

11.00 - 11.10 am in the Council Chamber, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND

**Responsible Officer:** Tim Ward

Email: tim.ward@shropshire.gov.uk      Tel: 01743 257713

### Present

Councillor 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

### 1 Election of Chairman

It was proposed and seconded that Councillor David Evans be elected as Chair of the southern Planning Committee for the ensuing municipal year.

### RESOLVED

That Councillor David Evans be elected Chairman of the Southern Planning Committee for the ensuing municipal year.

### 2 Apologies for Absence

There were no apologies for absence

### 3 Appointment of Vice-Chairman

Nominations were received for Councillors Nick Hignett and Tony Parsons.

### RESOLVED:

That Councillor Nick Hignett be appointed as Vice-Chair for the ensuing municipal year.

Signed ..... (Chairman)

Date: .....

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## AGENDA ITEM



Committee and date

**21st May 2024**

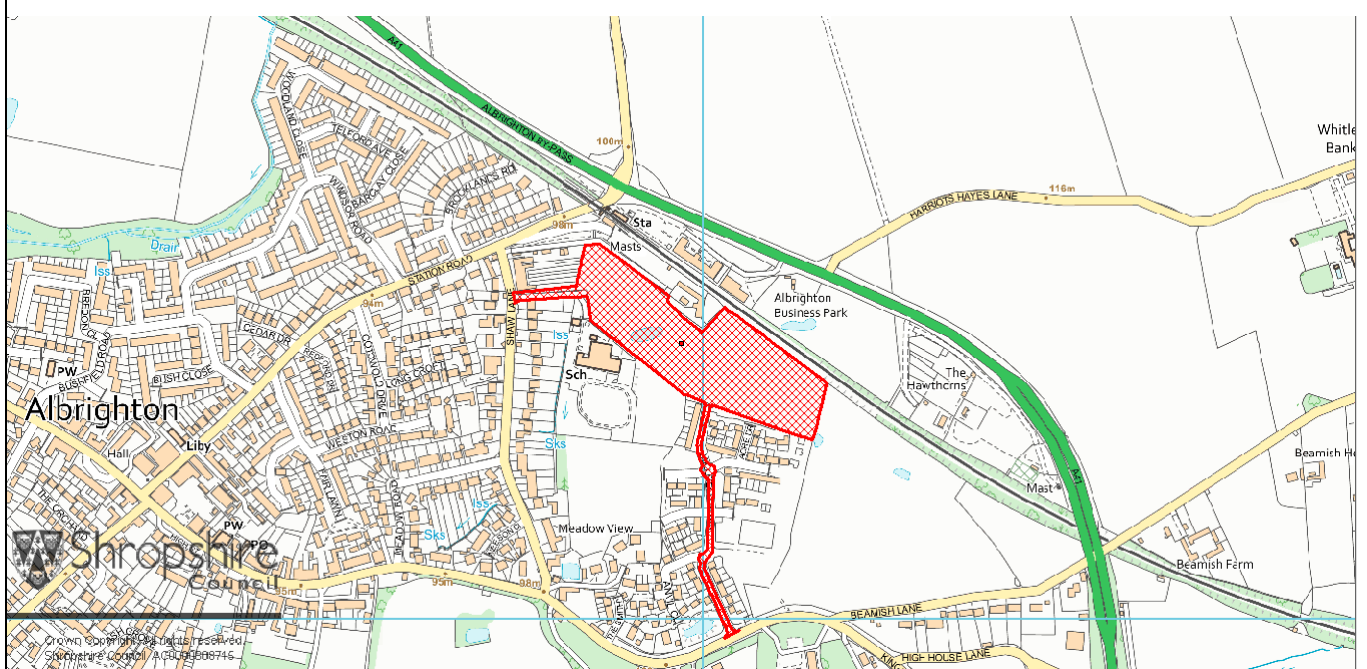
### Development Management Report

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

### Summary of Application

<b>Application Number:</b> 23/02095/OUT	<b>Parish:</b> Albrighton
<b>Proposal:</b> Outline planning permission for up to 90 dwellings, to include access only. (Revised description)	
<b>Site Address:</b> Proposed Residential Development Land East of Shaw Lane Albrighton Shropshire	
<b>Applicant:</b> Boningale Homes Ltd	
<b>Case Officer:</b> Sara Jones	<b>email:</b> sara.jones@shropshire.gov.uk

**Grid Ref:** 381972 - 304364



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**Recommendation:-** GRANT permission and provide delegated authority to Officers to secure a Section 106 Agreement as described in the report and any necessary conditions.

## REPORT

### 1.0 THE PROPOSAL

1.1 The amended application under consideration is for outline planning permission to include the access as the only matter for consideration at this stage. The detailed layout, landscaping, scale and appearance of the development is reserved for future consideration. Following significant issues raised by Officers with respect to the layout, the applicants have amended the application. The scheme proposes the erection of up to 90 dwellings on approximately 3.5 hectares of agricultural grazing land to the north of the existing Millfields housing estate. This effectively represents Phase 4 of development, the Local Planning Authority having recently resolved to grant planning permission for Phase 3 (as a windfall site). The proposal site is allocated for residential development under housing allocation ALB002 East of Shaw Lane, in both Shropshire Council's adopted and emerging Local Plan. The schedule S1.1a: Housing Sites for land east of Shaw Lane (ALB002) has a provision guideline of 180 units.

Phase 1 - 56 dwellings;  
Phase 2 - 65 dwellings; and  
Phase 3 – 43 dwellings (windfall site)

The guideline figure for the allocated site sought the delivery of around 180 dwellings. Phase 1 and 2 having delivered 121 dwellings it is anticipated that this remaining site would deliver at least 59 dwellings.

1.2 The main vehicular access for the development is proposed to be through the Millfields development to the south via the existing access onto Kingswood Road. A secondary access onto Shaw Lane is proposed to be provided for pedestrians, cyclists and for emergency access only. The site is currently accessed off Shaw Lane via a gated shared driveway (School Road) with the St Marys Primary School, which is under the applicant's ownership, with the school having a right of access along the driveway.

1.3 The relevant planning history includes applications 17/03774/FUL and 18/03579/FUL. These applications proposed access solely from Shaw Lane with no assurance that access from Kingswood Lane to the south could be achieved, both were refused (and 17/03774/FUL dismissed at Appeal) on the unacceptable impact the proposal would have on highway safety along Shaw Lane.

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- 1.4 Application 17/03774/FUL included a three-storey extra care building which was considered to be out of keeping with the character and appearance of the locality, and to have an adverse impact upon the setting of the listed railway station building. The Inspector agreed with the Council's concerns and concluded that, the totality of harm identified would outweigh the combined public benefits associated with the proposal, including its provision of extra care homes and affordable housing.
- 1.5 Overall, the Inspector concluded that the evidence indicated that the existing conditions present safety risks to highway users and the increased vehicular activity associated with the development at the proposed site access junction with Shaw Lane would unacceptably increase the risk of conflict and confusion between highway users, to the detriment of highway safety.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is bounded to the north by caravan storage, Albrighton Railway Station and a railway line. To the southwest is Saint Mary's Church of England Primary School and school grounds. To the south is the existing Millfield's housing development. The western boundary features a field hedgerow, separating the site from residential gardens on Shaw Lane. Further agricultural land bounds the site to the east.
- 2.2 Four trees on the site are protected under a Tree Preservation Order (TPO) the 'Shropshire Council (Land off Shaw Lane and Kingswood Road, Albrighton') TPO, 2010'. The protected trees are identified as T9, T10, T11 and T12 (all English oaks) in the Arboricultural Assessment and Method Statement (fpcr, April 2023).

## **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Parish Council comments are at variance with the Officer view and the Local Member has requested Committee determination. The Chair of the South Planning Committee, in consultation with the Development Manager South, consider that material planning considerations are raised which warrant consideration by the South Planning Committee.

## **4.0 Community Representations**

### **Consultee Comment**

#### **4.1 SC Highways – Comments**

In the event the applicant pursues the outline permission with access and removes layout as a matter for consideration, Shropshire Council as Highway Authority would not raise any objection to the granting of consent. The current application currently only promotes emergency vehicular access off Shaw Lane, together with pedestrian and cycle access. This is something that is a key consideration when determining

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whether from a highway perspective we would support the application. A vehicular access off Shaw Lane would not be appropriate or supported by the Local Highway Authority. On this basis we would seek secure as part of any outline permission granted that this is reflected in any reserve matters application when layout is considered. Recommend conditions.

#### 4.2 **SC Affordable Housing** – Comments:

That the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy and that the level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application.

The current prevailing target rate for affordable housing in this area is 15%. The assumed tenure split for affordable homes provided as a requirement of Policy is 70/30% split in favour of affordable rented tenure.

The affordable dwellings would be required to be transferred to a Registered Provider and allocated in accordance with the Councils Adopted Allocation Policy.

We would also expect the affordable homes to be served off an adopted highway (part of the illustrative master plan would suggest that some dwellings are served off an unadopted highway). Otherwise, this would result in an additional cost to the Registered Provider which may then be passed to the occupier.

Whilst not a current policy requirement, we encourage affordable housing to meet Nationally Described Space Standards.

The size, type, tenure and siting of the affordable housing should be discussed and agreed in writing with the Housing Enabling team before the submission of Reserved Matters should Outline consent be granted.

#### 4.3 **SC Trees** – Comments - In the event the applicant pursues the outline permission with access and removes layout as a matter for consideration, recommend conditions.

#### 4.4 **SC Rights of Way** – No Rights of Way are affected by the application proposal.

#### 4.5 **SC Conservation** – No objection.

Comments - The site lies adjacent Albrighton Railway Station and the interconnecting pedestrian bridge which is grade II listed along with the railway bridge that goes over the adjacent highway which is also grade II listed. The principal railway station was built by the Shrewsbury and Birmingham Railway that later became the Great Western Railway (GWR) during the 1880s in their 'house'

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Italianate design constructed in the 1850s in red brick and slate. The site is also adjacent Meeson Hall that is also grade II listed. To the west of the site lies the terrace of 1- 9 Shaw Lane where these are considered to be a non-designated heritage asset as defined under Annex 2 of the NPPF, where the terrace may have been constructed not long after the construction of the railway.

- 4.6 **SC Archaeology** – Recommend condition - archaeological inspection of ground works.

Further to our comments and recommendations of 03 July 2023 and in the light of further submissions from the applicants' agents and the results of investigative work undertaken on adjacent sites, we are prepared to amend our recommended mitigation for a programme of archaeological work in the form of a watching brief and instead we would recommend that provision for an archaeological inspection of ground works for the proposed development be made a condition of any planning permission for the development.

- 4.7 **SC Drainage** – The outline drainage strategy is acceptable in principle and for this Outline application. Recommend condition and informatives.

- 4.8 **SC Environmental Protection – Amenity** - Recommend condition noise mitigation measures and given the development sites proximity to existing housing and a school there is a potential for noise and dust impact upon the locality during construction phase. Recommend that if permission is granted that a condition requiring submission of a suitable construction management plan which includes measures to control noise and dust impact is attached.

- 4.9 **SC Environmental Protection – Contamination**

Site investigations and evidence of the significant contamination that remains on the main part of the Albrighton Gasworks is reported by GIP Ltd and was submitted in support of planning application 17/02469/FUL. Environmental Reports by GIP Ltd can be viewed at <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OQD8RITDLYE00> and investigations suggested that the prevailing hydraulic gradient in respect of groundwater was in a southerly direction from the Gasworks site to the existing pond within the proposed development site. Contamination in both soils and groundwater was significant.

The Integrale Ltd site investigation and reporting was undertaken nearly 9 years ago and can no longer be accepted to demonstrate potential risks to human health, controlled waters and the environment, and an updated site investigation and risk assessment is required.

Recommend condition.

- 4.10 **SC Ecology (04.03.2024)**

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Recommend conditions.

- 4.11 **Environment Agency** – No objection, recommend conditions.
- 4.12 **Severn Trent Water** – No objection, recommend condition drainage details are secured by condition to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.
- 4.13 **Network Rail** – Comments that this proposal will require an interface with Network Rail and raise a number of issues relating to the proximity of the railway line. Full comments can be viewed on the Council's Public Access System.
- 5.0 Public Comments  
Publicity**
- 5.1 Albrighton Parish Council (11.01.2024) – Objection remains as submitted 7<sup>th</sup> July 2023.

Comments that:

- the Parish Council were presented at their last full council with a proposal from the developer, regarding the inclusion of a 20-space car park on the westerly side of the development which they have agreed to take ownership and responsibility for, subject to design considerations and that the proposed attenuation pond would then be tanked underground and the space then being more open.
  - the Parish Council are also aware of a proposal from the developer for an access road is to be extended down, with amenities piped to the top of St Mary's Primary school playing field, to expand use of the junior pitch for the community. Such inclusions, if documented by the developer on the portal, would go some way to mitigate Parish Council objections.
- 5.2 Albrighton Parish Council (07.07.2023) – Objection
- accepts that the land in this application is allocated for development in the Shropshire Council SAMdev plan for housing development in the village.
  - welcomes the position taken by the developer to have a pedestrian and emergency only access by St Mary's school in Shaw Lane.



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- expected the development to help alleviate issues of parking in the village in Shaw Lane and Station Road, emanating from vehicle parking from users of the Railway Station, St Mary's school during drop off and pick up and the nearby doctor's surgery.
- expected within the whole site that open space would be provided with various amenities.
- draws attention to the wording of the SAMdev policy and that the expectation was that a car park would be provided. Considers that the proposed allocation of six spaces, as parallel cut outs from the road, do not provide any additional spaces in reality, as motorists could have parked on that side of the road anyway. Their provision of six spaces falls well short of the 20 spaces envisaged when SAMdev was agreed.
- whilst the developer can point to national guidelines that the proposed phase four development has been met, it is not providing the openness that Albrighton residents were expecting as a usable space. There is no park in Albrighton and this was an opportunity to provide more usable open area to walk and play.
- as the developer has now obtained phase three and four, they are now in the position where they are responsible for provision of facilities identified in SAMdev as there is not much reserved land left within the allocation.
- there is the demand from villagers for an adult football pitch. At our planning committee the developers stated there is an adult pitch at the rear of St Mary's school.
- Parish Council would encourage the developers to consider providing access to these grounds via the development. Security of the school has been the main prohibitor from this field being made available to the public. If a car park could be provided this could be used on a weekend by team members parking. This would minimise parking disruption to residents of the development.

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- as only on outline application, APC are worried that at this stage no provision is identified for one- or two-bedroom dwellings and dwelling suitable for elderly persons, identified in the SAMdev.

5.3 24 Representations received objecting to the application, on grounds which may be summarised as follows:

- strain in local services of the significant new developments.
- It should be a condition of planning permission that existing roads on phases 1 and 2 are completed and adopted by Shropshire Council before any work of phase 4 commences.
- residents of phase 1 have already been living adjacent to a building site for 3+ years, and the planning conditions should ensure that these previous phases of the development are completed and protected from disruption from Phase 4.
- further development is planned by another developer adjacent to Phase 2, which may further impact traffic levels and disturbance to existing residence.
- suggest land to be used for emergency access is gifted to the school to provide a safer, wider access route that allows vehicles to pass on this (blind) thoroughfare, solving an extant issue around vehicular access.
- concern about proposed emergency access route next to school and the use of a bollard, which will become neglected and eventually fail; use of the emergency route by younger children in terms of safety i.e. running into Shaw lane and question time saved by emergency services when factor in removal of the bollard.
- concerns over the impact of additional vehicles movements on Shaw Lane (resulting from the poorly considered control of access for emergency vehicles) and concern that the environmental harm caused does not currently outweigh the benefit of additional housing provision.

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- the transport assessment plan has not been updated since phase 3 was given planning permission. It notes the proposals for phase 3 but has not updated the figures to compensate.
- Millfield Road already has cars parked alongside the road, and an additional 56 vehicle movements along the already Millfield Road (figures from the transport assessment plan) needs to be reconsidered when combined with the additional movements from phase 3.
- with vehicles from phase 4 potentially accessing the M54 the failure to provide an alternative access at the North end of the development could add 3 to 4 KM per day to the return journey for house on phase 4, which is no conjunctive to environmental targets.
- Road access should be included onto Shaw Lane, with a high restricted barrier to ensure access is only used by residential vehicles, and to satisfy Network Rails concerns about the low bridge on Station Road. This could be in the form a shared access road with the school.
- inclusion of a sports facility is also not included in the transport access plan, and if that is accessed via any of the phases of the Millfield developed will increase car movements via Millfield Road – the plans do not provide sufficient parking for the sports field, which is likely to cause further on road parking problems.
- the transport access plan has missed the opportunity to provide direct footpath access to the rail station, which the developer could include in conjunction with the owner of the derelict land adjacent to the station. Current options would require pedestrians to walk in the wrong direction onto Shaw Road before doubling back to access the railway station. It would be a missed opportunity not to provide a direct and shorter footpath between phase 4 and the front of the railway station.
- section 106 developers' contribution should be sort to transform the derelict land adjacent to the railway station driver into additional parking, and to provide a pavement along the full length of the station driver. Section 106 contribution could about sort to provide level access to the Birmingham bound platform at Albrighton Railway Station.

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- request that a condition to ensure that the developer, including their contractors and sub-contractors, must not use an vehicles above 3.5 tones along the existing development roads, with all delivers on larger vehicles transferred to low weight vehicles before turning on to Millfield Road to reduce the risk to existing residences.
- request noise mitigation during construction to ensure no workers on site before 0830 or after 1700, including their vehicles.
- the proposal to widen the access along School Drive (incorporating the current access track) requires the removal of one beech tree (T20) and a significant encroachment of the RPA for the cedar tree (T19) located at the top of School Drive. These trees make a significant contribution to the street scene which will be even more valuable with the further proposed development of the area. If the emergency access is removed from the proposals, this would allow consideration of alternative paved/ gravelled surface that might allow the beech to be retained and for less impact on the cedar tree. If there does need to be excavation within the RPA of the cedar, would suggest that this should be either hand digging only; or excavation with an air-spade. The current arboricultural method statement simply states that the work will be undertaken under a watching brief, and this is not sufficient.
- request installation of a pedestrian crossing at the bottom of School Drive.
- potential for bats – submitted Ecological appraisal is insufficient. Surveys should be undertaken at the appropriate time.
- request location of electric vehicle charging points as part of the full planning application.
- concern about potential archaeology, support for efforts to understand how Albrighton has developed.
- gas central heating should not be the default heating system. Avoiding the costs associated with connecting to the gas network would allow heat pumps to be installed for a similar (or lesser cost) and would result in reduced carbon emissions. It is hard to imagine how Shropshire would be able to reach nett

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zero by 2030 without requiring all new development to be nett zero (although it is recognised that this is perhaps at odds with national planning policy).

- increased use of sole access along Millfields Lane, already used by 150 dwellings, additional 43 (phase 3) and up to 90 further dwellings double size of estate making life intolerable for those of us living on this road. Request reducing in road speeds to 20 mph plus traffic calming measures.
- concern about impact of construction traffic.
- request the provision of single storey bungalows with the aim of releasing family suitable accommodation within the town.
- concern about position of proposed attenuation pool in terms of drainage and proximity to the primary school.
- residents of 1-9 Shaw Lane currently have no off-road parking facilities, request securing access to back of properties via land currently proposed for attenuation pool.
- access path alongside No.9 Shaw Lane with a crossing will erode the parking available to 1-9 Shaw Lane.
- will impact adversely on condition of access roads.

#### 5.4 Ward Cllr Lumby – Objects

- unable to support the application because it doesn't provide the facilities that the community was expecting.
- whilst the children's play area and a small fenced in children's football area have been provided by the developer in phase 2, there is little in the outline application to satisfy the remaining items identified in SAMdev, even though they have through the four phases, owned the majority of land.
- the Draft Local Plan states that the development of the saved SAMDev residential allocation will include provision of land on or adjoining the site for

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open space and leisure facilities and help provide additional parking in the vicinity of Albrighton railway station.

- notes that the wording in the emerging Draft Local Plan policy for this site has changed in that the provision for an adult football pitch and car park have gone from a 'shall' to a 'will'. The original documents when SAMdev was open for consultation indicated a 20-space car park and parking for a coach.
- considers that the coach parking is not necessary but parking for 20 cars remains very much a requirement. Several other objections from members of the public have identified the issue of parking in Shaw Lane and Station Road. A 20-space car park, which could be constructed of the mesh under grass type, would be crucial to alleviating parking issues and making Shaw Lane safer for children attending St Mary's School. Whilst it would attract some commuters from the railway station, relieving on street parking, it could be used by parents drop off/pick up to then use the safe connecting pavement into Shaw Lane school entrance.
- the developer must consider a scheme, funded by CIL where access and facilities are built to use the adult size playing field at the rear of Shaw Lane. Again, the car park would have a role to play allowing persons attending football to park safely and not interfere with the residents of the development. SAMdev clearly said the facility can be adjacent to the development. A youth shelter within the open space should be considered, as it will be far enough away from the houses.
- there was an expectation from the community that this phase 4 would provide more open space than the (nationally compliant) other phases have provided, to give an area to play in.
- the developer should consider contributing, via CIL or 106 to having a raised roadway outside St Mary's school to further provide safety for users.

5.5 Comments West Midlands Trains - would like to propose the following improvements to the station to ensure it's fully accessible:

- Install lifts
- Tarmac the station approach
- Improve exiting footpath on current station approach
- Recover footpath on Birmingham bound platform

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- Install lighting on footpath
- Install waiting shelters/benches

## 5.0 THE MAIN ISSUES

Principle of development  
Access Arrangements  
Community Parking  
Layout  
Ecology  
Residential Amenity  
Archaeology  
Contamination  
Drainage

## 6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site itself forms part of a wider site allocated for residential development at Albrighton within the adopted Local Plan. Specifically, the site forms the northern element of residential allocation ALB002. The site is also located within the settlement development boundary for Albrighton as identified on the Policies Map for the adopted Local Plan. As such, the principle of residential development on the site is established within the adopted Local Plan.

6.1.2 The development guidelines for residential allocation ALB002 are documented within Schedule S1.1a of the SAMDev Plan. They state:

*“The provision of affordable housing as part of the development should have particular emphasis on intermediate affordable housing for local needs, assisting any innovative forms of community-led provision as appropriate. Amongst the market housing, a proportion of one or two bed units will be sought.*

*Development proposals should help provide additional parking in the vicinity of Albrighton railway station. As part of the development, land will be provided on or adjoining the site for open space and leisure facilities including a children’s play area, adult football pitch, youth shelter, multi-use games area and leisure centre/sports hall, with good pedestrian connections to the village.*

*Proposals must provide for the long-term comprehensive development of this site and facilitate an eventual through-road between Kingswood Road and the northern end of Shaw Lane. The site layout should allow for integration with future development on the safeguarded land over the longer term.”*

6.2 Access Arrangements

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- 6.2.1 As noted above previous applications encountered issues with achieving a suitable access onto Shaw Lane. The Transport Statement prepared in support of the Phase 1 and Phase 2 planning application, set out that the proposed access onto Kingswood Road would serve the Millfield site in its entirety. A vehicular access off Shaw Lane would not be acceptable and accordingly the applicant has indicated that only emergency vehicular access would be provided off Shaw Lane, together with pedestrian and cycle access. As such a condition is recommended to secure that as part of any outline permission granted that the reserved matters application includes full engineering details of the proposed pedestrian, cycle and emergency access on to Shaw Lane and that the approved works are fully implemented before any of the dwellings it would serve are first occupied.
- 6.2.2 A new foot and cycle path connect the development directly onto Shaw Lane to the west and reduce the walking distance to local amenities. School Road would need to be modified to allow for a dedicated parallel footway / cycleway along its northern edge which would comprise a width of 3 metres wide, with a total corridor width of 4 metres provided to allow for emergency access. The installation of a reflective collapsible bollard to replace the existing gate would ensure that the only vehicles to use the footway / cycle facility would be emergency related. The "school keep clear" markings would be re-painted and two dropped kerb and tactile paving crossings provided to the south and north of School Lane.
- 6.2.3 SC Highways would welcome the refreshment of the markings and the crossing point. Furthermore consideration was given to the provision of a raised plateau to reduce traffic speeds in Shaw Lane however as this access would be an emergency access to the site only and the Safety Audit undertaken by the applicant noted that the proposed dropped kerb and tactile paving crossing points were deemed acceptable and did not identify these to be of a safety concern, the applicant has declined to include this within the scheme.
- 6.2.4 It has been demonstrated that a Fire Tender could suitably turn left in / left out at the emergency access at Shaw Lane and also enter a suitably designed internal road layout.
- 6.2.5 In terms of a visibility requirements, the Shaw Lane access would only be used in the event of an emergency / when the main access via Kingswood Road is blocked. It is not considered necessary or reasonable to demonstrate standard visibility for an emergency access.
- 6.2.6 A second bollard on the development side of the link via Shaw Lane could be provided which would restrict any vehicles on the development side from using the route (other than in emergencies). It is noted that whilst the width of the pedestrian access would be reduced either side of the proposed bollards this is considered acceptable in terms of the relevant guidance contained within Manual for Streets.



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- 6.2.7 In terms of physical separation between the proposed pedestrian access and School Lane, the existing mesh perimeter fencing is proposed to remain and a short section of guard rail fencing is proposed at the existing school gated entrance to improve intervisibility between the school access and the proposed path.
- 6.2.8 Whilst it will be for the school to decide whether a new pedestrian only access is acceptable, the indicative scheme shows how a new pedestrian access could be provided between the proposed development and the school. The access could be located adjacent to 5 additional school cars parks spaces and could provide a more direct link to both future children walking to school and parents using the communal parking bays for drop-offs and pick-ups.
- 6.2.9 The proposed development is an acceptable location for travel by sustainable modes, with many services and facilities in acceptable walking and cycling distances.
- 6.3 Community Parking
- 6.3.1 The submitted Transport Statement acknowledges that there is insufficient formalised parking provided within St Mary's Primary School existing school grounds to accommodate staff, which resulted in ad-hoc indiscriminate overspill parking on grassed verges. The Transport Statement concludes that there is a need for 5 additional parking spaces. It also observes that only staff are authorised to park in the school grounds.
- 6.3.2 To address the identified need the indicative scheme proposes a parcel of land that can accommodate 6 additional parking spaces on the eastern edge of the school's internal access road.
- 6.3.3 Albrighton Station includes a pay and display car park with facilities providing some 17 car parking spaces and 50 cycle spaces. The submitted Transport Statement concludes via observation that there is sufficient car parking provided at Albrighton Station and given there is local free on-street parking available in the vicinity of the railway station, this is a more attractive option for commuters than having to pay at the rail station car park. Further on-street parking does occur along the public highway in the vicinity of the site; however, this is primarily during the school drop-off period (between 08:40 and 09:00), with the majority of parents parking on Shaw Lane and a small proportion parking on the unrestricted section of Station Road or within the railway car park itself.
- 6.3.4 In the light of the above and in response to the SAMDev policy, the indicative scheme includes 6 on-street lay-by spaces adjacent to the public open space access via Kingswood Road. The applicant contends that these communal parking spaces would be open to the public to use as they wish, i.e., for school drop-offs, the train station, or GP surgery, with each of these amenities closely accessible via the pedestrian / cyclist access via Shaw Lane. It has therefore been demonstrated that

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the allocation guideline seeking the provision of community additional parking in the vicinity of Albrighton railway station could therefore be met within this final part of the wider allocation as part of the future reserved matters application.

## 6.4 Layout

6.4.1 It is acknowledged that the layout of a development on this site would need to be largely driven by the constraints imposed by access requirements, provision of public open space, requirement for an attenuation basin and existing trees/pond. Together with the proximity to the railway line and Albrighton Bypass and existing caravan storage north of the site and the school to the southwest.

6.4.2 As noted above the amended application excludes the layout of the development which would be considered at the time of the Reserved Matters application. The indicative layout submitted is unacceptable, encountering issues with regards to “place making” such as insufficient space for vehicular manoeuvring, lack of space for viable and sustainable planting, unacceptable drag distances for refuse collection points, extensive areas of unrelieved parking and inactive edges which would not create a well-designed place.

6.4.3 The layout has however demonstrated that a suitable separation distance can be achieved between the estate perimeter road and retained trees and hedgerows and suitable tree protection measures have been included in the submitted AMS in the AA and MS.

6.4.4 The indicative layout shows a mixture of terraced, semi-detached and detached dwellings. The size, type, tenure and siting of the affordable housing would be required to be identified at the time of the submission of Reserved Matters and preferably discussed with the Housing Enabling Team before submission. Whilst the level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application, the current prevailing target rate for affordable housing in this area is 15%. The assumed tenure split for affordable homes provided as a requirement of Policy is 70/30% split in favour of affordable rented tenure. The affordable dwellings would be required to be transferred to a Registered Provider and allocated in accordance with the Councils Adopted Allocation Policy.

6.4.5 Whilst the precise dwelling mix is a marketing decision for the applicant, it is considered that the mix of development suggested here is varied and would be in accordance with Core Strategy policy CS11 and SAMDev Plan policy MD3, which seek to achieve mixed, balanced and inclusive communities, and the development guidelines to the SAMDev housing allocation.

## 6.5 Open Space Provision

6.5.1 When considering open space provision, in addition to the relevant development guideline (as set out in para. 6.1.2 above), SAMDev Plan Policy MD2 requires the

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provision of adequate open space of at least 30sqm per person calculated on the basis of one person per bedroom.

- 6.5.2 As the landscaping, layout, scale and design has now been reserved for consideration at a future date this is a matter which could be secured by a suitably worded condition to ensure that adequate open space of at least 30sqm per person is provided.
- 6.5.3 Turning to the site guidelines this refers to land for facilities rather than the facilities necessarily themselves being provided, on or adjoining the site. In this regard the applicant has been exploring opportunities to facilitate the provision of formal leisure facilities adjacent the site. This provision should however be complemented by the provision of land on-site for open space and leisure facilities. The open space provision approved on the previous phases of development which make up the overall allocation includes a formal play area and junior football pitch, however it remains important that appropriate and effective open space provision which complements the wider provision on the site, is made on the component of this allocation. In addition, it is noted that the development would be subject to the CIL and that a proportion of this money would be available for the provision of sports facilities should this be a priority for the community.
- 6.5.4 Overall, it is considered that there would be opportunities for the provision of additional open space and leisure facilities with good pedestrian connections to the village could be made on and on land adjoining the site and that details of this should form part of the first reserved matters application. A legal obligation could also ensure that details of the on-going management/ maintenance of the public open space are provided for.
- 6.6 Ecology
- 6.6.1 It is noted that the landscaping details are reserved to be submitted as part of the Reserved Matters application. The Agent has confirmed that as part of these details they would submit a detailed Biodiversity Net Gain Matrix which would demonstrate a net gain. This application was submitted prior to the mandatory 10% net gain requirement however the reserved matters application will need to show no net loss. Section 7 of the Feasibility Report submitted with this application sets out the on-site and off-site options to achieve this.
- 6.6.2 In the light of the additional information submitted the SC Ecology Team have raised no objection to the scheme and recommend suitable conditions to ensure the provision of biodiversity net gain, the provision of amenity and biodiversity afforded by appropriate landscape design and features of recognised nature conservation importance are protected.
- 6.7 Residential Amenity

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- 6.7.1 The details submitted to support this application include a Noise and Vibration Impact Assessment. Surveys were undertaken to determine the existing levels of noise and vibration associated with the adjacent railway lines, Albrighton Bypass, caravan storage and Primary School. This has established that as a consequence of the traffic noise associated with the trainline and bypass, some properties with a direct site line of the railway line and Bypass would require some mitigation in the form of acoustically controlled ventilation. The vibration assessment found that the resultant day and night-time vibration levels would be such that no mitigation is required and likewise the noise from children using the external play areas has been assessed and, when looking in context, it is unlikely to be significant. Therefore, there is no significant noise impacts due to the existing school. Whilst layout has been omitted for consideration at this time the assessment submitted remains relevant.
- 6.7.2 The SC Environmental Protection Team has been consulted on the application and raise no objection in principle subject to appropriate conditions to ensure that details of the noise mitigation measures are submitted for approval.
- 6.7.3 Whilst it is noted that the detailed design of the dwellings is reserved for future consideration the indicative layout indicates that each dwelling could be provided with two parking spaces, which may include the garages. There are no existing residential properties immediately adjacent to the application site proposals, with the exception of adjacent indicative Plot 27 where, subject to an appropriate layout, sufficient distance separation could be retained and, subject to appropriate detailing, an acceptably designed dwelling would ensure no loss of existing residential amenity. Properties on Shaw Lane would be separated from the proposed dwellings by the school premises and as shown on the indicative layout the attenuation pond and associated landscaping, which would ensure the proposals would have no significant impact upon their amenity. The relationship of the proposed development with the dwellings constructed under the previous phase adjacent the southern boundary of the site could be separated by a linear landscaping feature which would, subject to its dimensions, ensure no residential amenity conflicts.
- 6.7.4 Overall, it is considered that an appropriate scheme could be designed to ensure that there would be no residential amenity conflicts in terms of unacceptable overbearing or privacy impacts within the development itself.
- 6.7.5 It is almost inevitable that building works anywhere cause some disturbance to adjoining residents. This issue can be addressed by conditions requiring the submission and approval of a construction method statement and restricting construction times to 07.30 to 18.00 Monday to Friday; 08.00 to 13.00 on Saturdays and no construction on Sundays, Bank or Public Holidays.
- 6.8 Historic Environment

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- 6.8.1 The submitted Heritage Assessment concludes that the site has low potential to encounter remains greater than local archaeological interest. Surviving archaeological remains would most likely be associated with previous farming regimes and 19th century clay extraction pits of a negligible level of local archaeological interest, and their study would be of limited to no evidential value in relation to current research agenda. Based on the information available, the potential archaeological interest of the site does not undermine the principle of its development.
- 6.8.2 Initially the SC Archaeologist recommended a phase of fieldwork to be made a condition of granting planning permission. Upon further consideration the SC Archaeologist is content that in the light of the results of investigative work undertaken on adjacent sites, an archaeological inspection of ground works would be sufficient in this case to ensure the protection of archaeological interests. This aspect of the development could therefore be addressed by the imposition of a suitably worded condition.
- 6.8.3 The submitted Heritage Assessment concludes that the development of this site would have no harm upon the significance of Albrighton Conservation Area, and the Grade II listed buildings 'The Railway Bridge', 'The Railway Station and Footbridge', and 'Meeson Hall', as such it aligns with the statutory objectives of Sections 66 and 72 of the Planning (Listed Buildings and Conservation areas) Act 1990, and Paragraph 189 of the NPPF. The SC Conservation Officer raises no objections in principle to the development of this site.
- 6.9 Contamination
- 6.9.1 The SC Contamination Specialist has reviewed the application and confirmed that site investigations undertaken previously in connection with application 17/02469/FUL are out of date and can no longer be accepted to demonstrate potential risks to human health, controlled waters and the environment and therefore that an updated site investigation and risk assessment is required. Accordingly, a condition is recommended, should permission be granted, to ensure that the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.
- 6.9.2 The Environment Agency has also been consulted and concurs with the SC Contamination Specialist's advice and also recommends conditions to ensure that the site does not pose any further risk to the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures; and that the development protects ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991).
- 6.10 Drainage

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The Council, as Lead Local Flood Authority (LLFA), has no objection to the proposed development subject to conditions. A Flood Risk Assessment (FRA) has been submitted with the application as required by the NPPF. A Flood Risk Assessment and Drainage Strategy which includes drainage calculations for the disposal of surface water for each phase of the development could be secured by condition to accord with Policy CS18 of the Core Strategy.

## 6.11 Other Issues Raised

- 6.11.1 It is noted that the site is in proximity to the railway line. Network Rail have recommended conditions and identified that the developer (along with their chosen acoustic contractor) is recommended to engage in discussions to determine the most appropriate measures to mitigate noise and vibration from the existing operational railway to ensure that there will be no future issues for residents once they take up occupation of the dwellings.
- 6.11.2 The submitted Noise and Vibration Impact Assessment demonstrates that a suitably designed scheme could be accommodated on this site which would ensure that the future occupants of the dwellings would be afforded acceptable living standards in respect of noise and disturbance (vibration); and that the development would be unlikely to lead to complaints which may in turn place unreasonable restrictions on the established Railway Network.
- 6.11.3 Furthermore, Network Rail has requested that to ensure the safe operation and integrity of the railway, conditions/informatives are attached to protect the railway and its boundary.
- 6.11.4 Network Rail bridge WSJ2/371 carrying rail over Station Road is just north of the site. It's a low bridge with a signed height restriction of 10'-6" 3.2m. The Transport Assessment notes there have been no recorded accidents at the Shaw Lane access, however Network Rail has identified that there have been 3 recorded bridge strikes at the low bridge since 2020. Network Rail has concerns that there could be an increase in the risk of bridge strikes at this bridge through construction traffic and increased traffic volume once the site is in use. Accordingly, whilst it is noted that the site vehicle access is proposed to be from Kingswood Road a condition is recommended to ensure that a Traffic Management Plan is submitted and approved as part of the Construction Management Plan and that a scheme for the provision of advanced warning signs is submitted and approved prior to the development commencing.
- 6.11.5 As noted above the West Midlands Trains have requested improvements to the station to ensure its accessibility to all users. However, whilst this would be welcomed it is not considered to meet the tests with respect to being necessary in order to make the development acceptable.

## 7.0 CONCLUSION

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- 7.1 The site is located within the settlement development boundary for Albrighton and forms the northern element of residential allocation ALB002. As such, the principle of residential development on the site is acceptable having been established within the adopted Local Plan. The amended application under consideration is for outline planning permission to include access as the matter only for consideration. In principle it has been established that a vehicular access off Shaw Lane would not be acceptable and accordingly the scheme proposes that the access to the residential development of up to 90 dwellings would be provided from Millfield Road and then onto Kingsford Lane and a secondary access provided from Shaw Lane for pedestrians, cyclists and for emergency access only. This arrangement is considered acceptable, and a condition is recommended to secure that the reserved matters application includes full engineering details of the proposed pedestrian, cycle and emergency access on to Shaw Lane and that the approved works are fully implemented before any of the dwellings it would serve are first occupied.
- 7.2 The layout, landscaping, scale and appearance of the development is reserved for future consideration, and there would be opportunities for an appropriately designed development to provide for open space and leisure facilities and community parking facilities with good pedestrian connections to the village sufficient to adequately meet the aspirations of the allocation guidelines. It is recommended that this application be granted subject to conditions and a signed S106 agreement which takes into account the on-going management and maintenance of public open space and secures the provision for the delivery of affordable housing in accordance with the requirements of the Councils SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of the Reserved Matters application.

## **8.0 Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

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

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

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework  
National Planning Practice Guidance

Shropshire Core Strategy:  
CS1 Strategic Approach



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CS3 The Market Towns and other Key Centres  
CS6 Sustainable Design and Development Principles  
CS9 Infrastructure Contributions  
CS10 Managed Release of Housing Land  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
CS18 Sustainable Water Management

Site Allocations and Management of Development (SAMDev)Plan:

MD1 Scale and Distribution of Development  
MD2 Sustainable Design  
MD3 Delivery of Housing Development  
MD8 Infrastructure Provision  
MD12 The Natural Environment  
MD13 The Historic Environment  
S1.1a Albrighton

SPD on the Type and Affordability of Housing  
Albrighton Neighbourhood Plan

## RELEVANT PLANNING HISTORY:

15/02448/FUL Residential Development of 65 dwellings with access and associated works (Amended Description) GRANT 16th April 2018  
17/03774/FUL Residential development of 74 Extra Care apartments and associated facilities, 6 bungalows and 58 houses; improved access REFUSE 7th June 2018  
18/03579/FUL Residential development of 6 bungalows and 58 houses (revised scheme) REFUSE 26th November 2018  
19/01917/AMP Non-material amendment relating to planning permission 15/02448/FUL - Residential Development of 65 dwellings with access and associated works (Amended Description) GRANT 19th June 2019  
21/00555/AMP Non-material amendment to planning application number 15/02448/FUL GRANT 11th March 2021  
21/00936/DIS Discharge of Conditions 4 (Road Construction), 7 (On-Site Construction), 9 (Bat Bricks), 10 (Lighting), 11 (Swifts), 13 (Badgers), 15 (Tree Protection), 16 (Drainage), 17 (Archaeology), 18 (Levels) and 20 (Footpath Link) on Planning Permission 15/02448/FUL for the residential development of 65 dwellings with access and associated works (Amended Description) DISAPP 14th April 2021  
21/05729/DIS Discharge of Condition 5 (Details of Ball Catch Fencing) associated with planning application number 15/02448/FUL REFUSE 2nd February 2022  
22/00341/AMP Amendments to planning permission 15/02448/FUL - Plot 100 replaces house type K with two Type G units, reconfigured parking bays to plots 90-93, removal of swales following redesigned drainage solution GRANT 1st April 2022

# AGENDA ITEM

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22/00342/FUL Subdivision of plot to allow for the erection of an additional dwelling (Type G) associated with planning permission 15/02448/FUL (Phase 2A) GRANT 31st March 2022  
22/01451/DIS Discharge of Condition 5 (Sports Pitch Fencing) on Planning Permission 15/02448/FUL for the Residential Development of 65 dwellings with access and associated works (Amended Description) DISAPP 30th March 2022

## Appeal

19/02731/REF Residential development of 74 Extra Care apartments and associated facilities, 6 bungalows and 58 houses; improved access DISMIS 1st November 2019

## 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RURJKOTDH0900>

List of Background Papers  
Planning application reference 23/02095/OUT and plans and supplementary reports.

Cabinet Member (Portfolio Holder) - Councillor Chris Schofield

Local Member  
Cllr Nigel Lumby

Appendices  
APPENDIX 1 - Conditions

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## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. Approval of the details of the appearance, landscaping, layout, scale and means of access thereto (other than the access points into the site from the Millfields development to the south via Kingsford Lane and the secondary access from Shaw Lane for pedestrians, cyclists and for emergency access only) of the development (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

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

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

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

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

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

4. Nothing in this permission shall be construed as giving approval to the details shown on the plans accompanying this application, other than in respect of the access points direct from the Millfield Road to the south and the secondary access from Shaw Lane for pedestrians, cyclists and for emergency access only. (As such details indicated on plans accompanying the application are for illustration purposes only).

Reason: To define the permission and to retain planning control over the details of the development to accord with Policy CS6 of the adopted Core Strategy.

5. The main means of vehicular access to the development shall be from Millfield Road only. A vehicular, pedestrian and cycle connection from the site must be afforded to land ALB017 & ALB021 (as defined in the draft development plan) directly up to the development boundary of the site. There shall be no means of vehicular access, other than emergency services vehicles, from Shaw Lane.

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Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users, in accordance with Policy CS6 of the adopted Core Strategy.

6. The first submission of reserved matters shall include details of how the development will ensure no net loss of biodiversity. This will be informed by an updated statutory biodiversity metric and will follow the recommendations in section 7 of the Biodiversity Net Gain Feasibility Report (FPCR, February 2024). The details shall be submitted to and approved in writing by the Local Planning Authority and shall include:

- i) Current soil conditions of any areas designated for habitat creation and detailing of what conditioning must occur to the soil prior to the commencement of habitat creation works;
- ii) Descriptions and mapping of all exclusion zones (both vehicular and for storage of materials) to be enforced during construction to avoid any unnecessary soil compaction on area to be utilised for habitat creation;
- iii) Details of both species composition and abundance (% within seed mix etc.) where planting is to occur;
- iv) Proposed management prescriptions for all habitats;
- v) Assurances of achievability;
- vi) Timetable of delivery for all habitats; and
- vii) A timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition as well as description of a feedback mechanism by which the management prescriptions can be amended should the monitoring deem it necessary.

The development shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure the provision of biodiversity net gain

7. The first submission of reserved matters shall include a Construction Environmental Management Plan. The submitted plan shall include:

- a) An appropriately scaled plan showing Wildlife/Habitat Protection Zones where construction activities are restricted, where protective measures will be installed or implemented;
- b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c) Requirements and proposals for any site lighting required during the construction phase;
- d) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- e) The times during construction when an ecological clerk of works needs to be present on site to oversee works;
- f) Identification of Persons responsible for:
  - i) Compliance with legal consents relating to nature conservation;
  - ii) Compliance with planning conditions relating to nature conservation;
  - iii) Installation of physical protection measures during construction;
  - iv) Implementation of sensitive working practices during construction;
  - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and

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- vi) Provision of training and information about the importance of Wildlife Protection Zones to all construction personnel on site.
- g) Pollution prevention measures.

All construction activities shall be implemented strictly in accordance with the approved plan.  
Reason: To protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 174 of the NPPF.

8. The first submission of reserved matters shall include full details of both hard and soft landscaping works. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. The submitted details shall include:
- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (including creation of hibernacula and log piles and hedgehog-friendly gravel boards);
  - b) A tree and hedge planting scheme, prepared in accordance with British Standard 8545: 2014 Trees: from Nursery to Independence in the Landscape Recommendations, or its current version;
  - c) Details of the trees and shrubs to be planted in association with the development, including schedules of species (including scientific names), seed mixes, locations or density and planting pattern, type of planting stock, size at planting, means of mulching, protection and support, planting period and date of completion, and measures for post planting maintenance and replacement of losses;
  - d) Details as relevant of the specification and location of the barriers to be installed prior to commencement of development (and / or any other measures to be taken), for the protection of ground reserved for the planting identified in c) above;
  - e) Written specifications for establishment of planting and habitat creation;
  - f) Implementation timetables.

Native species used are to be of local provenance (Shropshire or surrounding counties). Any trees or shrubs which die or become seriously damaged or diseased within five years of completion of the development shall be replaced within 12 calendar months with trees or shrubs of the same size and species.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design and to enhance the appearance of the development and its integration into the surrounding area.

9. The application for reserved matters relating to the layout of the development shall specify the location of the proposed affordable housing units (provision being in accordance with the associated Section 106 Agreement) to be provided on that part of the site covered by that application. No works shall commence on the part of the site covered by that application until the location of affordable housing within it has been approved in writing by the local planning authority.

Reason: To ensure the provision of affordable housing, in accordance with Development Plan housing policy.

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10. The first application for reserved matters shall include the layout and provision of public open space of at least 30sqm per person calculated on the basis of one person per bedroom and the provision of at least 12 standard sized car parking spaces dedicated for community use, together with details of and the mechanism for the provision of additional leisure facilities on or adjacent the site.

Reason: The provision of play areas and informal open space is necessary in the interest of the amenity, health and well-being of future residents. The condition is to ensure the quantity, quality and accessibility of recreational and amenity open space is appropriate for the development hereby permitted and the provision of community parking facilities in accordance with Policy MD2 and Schedule S1.1a of the SAM(Dev) Plan and Policy CS6 of the Core Strategy.

11. The application for reserved matters relating to the layout of the development shall specify the domestic waste disposal arrangements which shall be adhered to throughout the operational phase of the development.

Reason: To ensure a sustainable development, protect the amenity of the area, the amenities of occupiers of nearby properties and future occupiers of the dwellings hereby permitted in accordance with Policy CS6 of the Core Strategy.

12. The application for reserved matters relating to the layout of the development shall include a Noise and Vibration Impact Assessment undertaken by a suitably qualified person which demonstrates that amenities of future residents / occupiers are protected and that appropriate mitigation measures are identified. The dwellings constructed in each phase of the development shall incorporate the identified noise reduction measures, which shall be carried out/installed before each dwelling is first occupied.

Reason: To ensure the amenities of future residents / occupiers are protected in accordance with Policy CS6 of the Core Strategy.

13. The plans and particulars submitted in support of the first reserved matters application shall include to the written satisfaction of the Local Planning Authority a tree survey, an Arboricultural Impact Assessment, an Arboricultural Method Statement and a Tree Protection Plan prepared in accordance with British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations, or its current version. The development shall be carried out strictly in accordance with the recommendations of these approved plans and reports.

Reason: to safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development in accordance with Core Strategy policies CS6, CS17, and policies MD2 and MD12 of the SAM(Dev) Plan.

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14. The plans and particulars submitted in support of the first reserved matters application shall include a tree planting scheme, prepared in accordance with British Standard 8545: 2014 Trees: from Nursery to Independence in the Landscape - Recommendations, or its current version, to the written satisfaction of the LPA. The approved scheme shall include:

- a) details of the trees and shrubs to be planted in association with the development, including species, locations or density and planting pattern, type of planting stock, size at planting, means of protection and support, planting period and date of completion, and measures for post-planting maintenance and replacement of losses;
- b) details as relevant of the specification and location of the barriers to be installed prior to commencement of development (and / or any other measures to be taken), for the protection of ground reserved for the planting identified in a) above.

The development shall subsequently be undertaken in accordance with the approved tree planting scheme.

Reason: to ensure satisfactory tree and shrub planting as appropriate to enhance the appearance of the development and its integration into the surrounding area in accordance with Core Strategy policies CS6, CS17, and policies MD2 and MD12 of the SAM(Dev) Plan.

15. No retained tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree works shall be carried out in accordance with British Standard 3998: 2010 Tree Work - Recommendations, or its current version. In this condition 'retained tree' means an existing tree, woody shrub or hedge which is to be retained in accordance with the approved plans and particulars; and any tree, woody shrub or hedge planted as a replacement for any 'retained tree'. This condition shall have effect until a Reserved Matters application is submitted and approved in full.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development in accordance with Core Strategy policies CS6, CS17, and policies MD2 and MD12 of the SAM(Dev) Plan.

16. A landscape and habitat management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape and habitat management plan shall be carried out as approved.

Reason: In the interests of the visual amenities and ecological interests of the area and to ensure the maintenance of open space and habitat areas in perpetuity in accordance with Core Strategy policies CS6, CS17, and policies MD2 and MD12 of the SAM(Dev) Plan.

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17. No construction or other operations/works associated with the development hereby permitted shall take place outside the hours of 08:00 to 18.00 Mondays to Fridays, and 08:00 to 13.00 on Saturdays or at any time on Sundays or Bank Holidays.

Reason: To ensure that the amenity that neighbouring occupiers can reasonably expect to enjoy are adequately protected in accordance with Policy CS6 of the Core Strategy.

18. The first application for reserved matters shall include full details of existing and proposed ground and finished floor levels. For development adjacent to the boundaries of the application site and adjacent to existing residential properties, the details shall include details of the setting out of buildings with plans annotating the distance of buildings from the boundaries to the existing adjacent properties. The plans shall also provide details of the ground levels at the retained trees and hedges. The development hereby permitted shall only be carried out in accordance with the approved details.

Reason: To ensure the levels are acceptable in relation to the surrounding area and to ensure the development is appropriate in relation to the amenity of neighbouring property; and that there is a satisfactory relationship to existing trees and hedges to be retained in accordance with Policy MD12 of the SAM(Dev) Plan and Policies CS6 and CS17 of the Core Strategy.

## **CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

19. The development shall be carried out in accordance with a phasing plan, which shall be first submitted to and approved in writing by the Local Planning Authority.

Reason: To clarify how delivery of development within the site is to be phased to assist with the determination of subsequent reserved matters applications and in order to ensure that infrastructure provision and environmental mitigation are provided in time to cater for the needs and impacts arising from the development and to accord with Policy CS6 of the adopted Core Strategy.

20. No development approved by this permission shall commence until the applicant has notified Shropshire Councils Historic Environment Team not less than three weeks prior to commencement of ground works, and to provide them with reasonable access in order to monitor the ground works and to record any archaeological evidence as appropriate.

Reason: The site has the potential to hold archaeological interest and to accord with Policy MD13 of the SAM(Dev)Plan.

21. No development, or phasing as agreed below, shall take place until the following components of a scheme to deal with the risks associated with contamination of the site are submitted to and approved, in writing, by the planning authority:

1) A site investigation scheme, based on 'Geotechnical And Phase II Contamination Report No. 1337/A, Intergrale Limited, December 2014' to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.



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2) The site investigation results and the detailed risk assessment (1) and, based on these, an options appraisal and remediation strategy, if necessary, of the remediation measures required and how they are to be undertaken.

3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. This should include any proposed phasing of demolition or commencement of other works.

4) Prior to occupation of any part of the development (unless in accordance with agreed phasing under part 3 above) a verification (validation) report demonstrating completion of the works set out in the approved remediation strategy (2 and 3). The report shall include results of any sampling and monitoring. It shall also include any plan (a "longterm monitoring and maintenance plan") for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Planning Authority. Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved.

REASON: To protect ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991) and ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors, in accordance with Policy CS6 of the Core Strategy.

22. If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, a Method Statement for remediation. The Method Statement must detail how this unsuspected contamination shall be dealt with and the works carried out accordingly. A verification (validation) report demonstrating completion of the works set out in the method statement shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of any sampling and monitoring. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Local Planning Authority.

REASON: To ensure that any unexpected contamination is dealt with and the development complies with approved details in the interests of protection of ground and surface waters ('controlled waters' as defined under the Water Resources Act 1991) and that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors, in accordance with Policy CS6 of the Core Strategy.

23. The development hereby permitted shall not commence until a monitoring and maintenance plan in respect of contamination, including a timetable of monitoring and

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submission of reports to the local planning authority, has been submitted to, and approved in writing by, the local planning authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

REASON: To ensure that the site does not pose any further risk to the water environment by managing any ongoing contamination issues and completing all necessary long-term remediation measures. In accordance with Policy CS6 of the Core Strategy and paragraph 174 of the National Planning Policy Framework.

24. Prior to the commencement of the development full engineering details of the proposed pedestrian, cycle and emergency access on to Shaw Lane shall be submitted to and approved in writing by the Local Planning Authority. This access shall not be used for construction vehicles. The works shall be fully implemented in accordance with the approved details before any of the dwellings it would serve are first occupied.

Reason: To ensure a satisfactory means of access to the highway protected in accordance with Policy CS6 of the Core Strategy.

25. Before the commencement of any above ground development hereby permitted, a phasing programme for the delivery of the following infrastructure / elements shall be submitted to and approved in writing by the local planning authority:

- a) the phased provision of pedestrian/cycle infrastructure, including provision for temporary works to ensure connectivity as the development phases progress;
- b) Completion of footpaths, cycleways, shared routes, and associated works (including lighting, signage, street furniture).
- c) Completion of emergency vehicular access, pedestrian and cycle access off Shaw Lane.
- d) where applicable details of proposed measures to ensure vehicular access, other than emergency use is prevented between the site and Shaw Lane.

The development shall be undertaken in accordance with the approved details.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety in accordance with Policy CS6 of the Core Strategy.

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

- i. A construction programme including phasing of works;
- ii. 24 hour emergency contact number;
- iii. Hours of operation;
- iv. Measures to control noise and dust impact;
- iv. Expected number and type of vehicles accessing the site:
  - o Deliveries, waste, cranes, equipment, plant, works, visitors;
  - o Size of construction vehicles;

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- v. The use of a consolidation operation or scheme for the delivery of materials and goods
- vi. Means by which a reduction in the number of movements and parking on nearby streets can be achieved (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction):
- vii. Routes for construction traffic, avoiding weight and size restrictions to reduce unsuitable traffic on residential roads
- viii. Locations for loading/unloading, waiting/holding areas and means of communication for delivery vehicles if space is unavailable within or near the site;
- ix. Locations for storage of plant/waste/construction materials;
- x. Arrangements to receive abnormal loads or unusually large vehicles;
- xi. Any necessary temporary traffic management measures;
- xii. Method of preventing mud being carried onto the highway;
- xiii. Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses;

The plan shall be adhered to throughout the construction period.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development and to ensure that the amenity that neighbouring occupiers can reasonably expect to enjoy are adequately protected in accordance with Policy CS6 of the Core Strategy.

27. No development shall take place until a Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period and the life of the operational use of the development. The Plan shall provide for:

- o a traffic management and HGV routing plan for HGV Vehicles; and
- o the implementation of advanced warning signs with respect to the Railway Bridge (identified as Ref. 1053664 in the submitted Heritage Impact Evaluation by Marrons Planning).

Reason: To avoid congestion in the surrounding area and to protect Heritage Assets in accordance with policy CS6 and CS17 of the Core Strategy, policy MD2 and MD13 of the SAM(Dev) Plan.

28. Prior to the commencement of development of each Phase hereby permitted, a scheme of surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall demonstrate that the scheme would not lead to stability issues on the adjacent railway land and shall include details of the future maintenance of the drainage system. The development shall be undertaken in accordance with the approved details. The approved scheme for each phase shall be implemented in full accordance with the approved scheme before the dwellings are first occupied and maintained in accordance with the approved details for the lifetime of the development.

Reason: To prevent the increased risk of flooding or land instability both on and off site and ensure satisfactory drainage facilities are provided to serve the site in accordance with Policy MD2 of the SAM(Dev) Plan and Policies CS6 and CS18 of the Core Strategy and paragraph 135 and 193 of the National Planning Policy Framework.

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29. Prior to the commencement of the development full details of ground levels, earthworks and excavations to be carried out within 10 metres of the operational railway shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: To ensure that the construction of the development can be carried out without adversely affecting the safety, operational needs or integrity of the railway in accordance with policy CS6 of the Core Strategy and paragraph 135 and 193 of the National Planning Policy Framework.

30. A method statement and risk assessment shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site. The statement and assessment shall include details of scaffolding works associated with the construction of the development within 10m of the railway boundary. The development shall be undertaken in accordance with the approved details.

Reason: To ensure that the construction and subsequent maintenance of the development can be carried out without adversely affecting the safety, operational needs or integrity of the railway and in the interests of public safety in accordance with policy CS6 of the Core Strategy and paragraph 135 and 193 of the National Planning Policy Framework.

31. Should any part of the development incorporate piling works or ground compaction works, a risk assessment and method statement (RAMS) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any such works. The RAMS shall also include confirmation that adjoining occupiers/businesses have been notified of the proposed duration and hours of piling/ ground compaction together with contact details of those carrying out the works. All piling/ground compaction works as necessary to complete the development shall be carried out in accordance with the approved details.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance and to prevent any piling works and vibration from de-stabilising or impacting the railway in accordance with policy CS6 of the Core Strategy and paragraph 135 and 193 of the National Planning Policy Framework.

32. Prior to the erection of any external lighting on the site, in each development phase, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features; and that there would be no overspill of light onto the railway land. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trusts Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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Reason: The details of lighting are needed to i) ensure provision of safe and convenient access for residents/occupiers, ii) avoid loss of residential amenity and prevent unacceptable light pollution; iii) avoid disturbance on foraging and commuting routes for wildlife, and in particular to ensure that excessive lighting is avoided adjacent to hedgerows and habitat features; iv) to ensure that the railway can operate safely, thus in accordance with Policies CS6 and CS17 of the Core Strategy and paragraph 135 and 193 of the National Planning Policy Framework.

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

33. Before occupation of the first dwelling in each development phase, details of a scheme, including a programme for implementation (specifying the maximum number of dwellings to be occupied before completion of the scheme), for the provision of equipped and informal play areas, formal and informal recreational and amenity open space for that relevant development phase shall be submitted to and approved in writing by the Local Planning Authority. The details shall include details of levels, drainage, planting, enclosure, street furniture, surfacing, seating and play equipment and structures (where necessary). Development shall be carried out in accordance with the approved details and programme and retained for the lifetime of the development. Thereafter, the formal and informal recreational and amenity open space and play areas shall not be used for any purpose other than play space, recreational or amenity space as approved.

Reason: The provision of play areas and informal open space is necessary in the interest of the amenity, health and well-being of future residents. The condition is to ensure the quantity, quality and accessibility of recreational and amenity open space is appropriate for the development hereby permitted in accordance with Policy MD2 of the SAM(Dev) Plan and Policy CS6 of the Core Strategy.

34. Prior to first occupation / use of the buildings commencing, in each development phase, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. A mix of the following boxes shall be erected on the site:

- external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- artificial nests, of either integrated brick design or external box design, suitable for a range of bird species, including swifts (swift bricks), starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), small birds (26mm and 32mm, standard design) and robins and blackbirds (open-fronted boxes).
- invertebrate boxes and/or bricks.
- hedgehog boxes.

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The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting and to timetable to be submitted and agreed in writing with the Local Planning Authority. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with SAM(Dev) Plan policy MD12, Core Strategy policy CS17 and section 180 of the NPPF.

35. Prior to occupation of the site details of a trespass proof fence/boundary treatment along the boundary with the railway line together with a phasing and maintenance plan shall be submitted to and approved in writing by the Local Planning Authority. The approved fencing/boundary treatment shall be installed prior to the occupation of the dwellings and in accordance with the approved phasing plan. The approved fence/boundary treatment shall be maintained for the lifetime of the development in accordance with the approved plan.

Reason: To protect the adjacent railway from unauthorised access and public safety in accordance with policy CS6 of the Core Strategy and paragraph 135 and 193 of the National Planning Policy Framework.

## **Informatives**

1. In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:  
National Planning Policy Framework  
National Planning Practice Guidance

Shropshire Core Strategy::  
CS1 Strategic Approach  
CS3 The Market Towns and other Key Centres  
CS6 Sustainable Design and Development Principles  
CS9 Infrastructure Contributions  
CS10 Managed Release of Housing Land  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
CS18 Sustainable Water Management

Site Allocations and Management of Development (SAMDev)Plan:

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MD1 Scale and Distribution of Development  
MD2 Sustainable Design  
MD3 Delivery of Housing Development  
MD8 Infrastructure Provision  
MD12 The Natural Environment  
MD13 The Historic Environment  
S1.1a Albrighton

SPD on the Type and Affordability of Housing  
Albrighton Neighbourhood Plan

2. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990. The S106 may include the requirement for a financial contribution and the cost of this should be factored in before commencing the development. By signing a S106 agreement you are legally obliged to comply with its contents, irrespective of any changes to Planning Policy or Legislation.

3. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

#### 4. Network Rail - Informatives

The developer is advised to submit directly to Network Rail Asset Protection, a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway under Construction (Design and Management) Regulations, and this is in addition to any planning consent. Network Rail would need to be reassured the works on site follow safe methods of working and have also taken into consideration any potential impact on Network Rail land and the existing operational railway infrastructure. Builder to ensure that no dust or debris is allowed to contaminate Network Rail land as the outside party would be liable for any clean-up costs. Review and agreement of the RAMS will be undertaken between Network Rail and the applicant/developer.

#### Measurements to railway tracks and railway boundary

When designing proposals, the developer and council are advised, that any measurements must be taken from the operational railway / Network Rail boundary and not from the railway tracks themselves. From the existing railway tracks to the Network Rail boundary, the land will include critical infrastructure (e.g. cables, signals, overhead lines, communication equipment etc) and boundary treatments (including support zones, vegetation) which might be adversely

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impacted by outside party proposals unless the necessary asset protection measures are undertaken.

Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by Network Rail prior to implementation.

Should the applicant require access to Network Rail land to facilitate their proposal they would need to approach the Network Rail Asset Protection Team at least 20 weeks before any works are due to commence on site. The applicant would be liable for all costs incurred in facilitating the proposal and an asset protection agreement may be necessary to undertake works. Network Rail reserves the right to refuse any works by an outside party that may adversely impact its land and infrastructure. Any unauthorised access to Network Rail air-space or land will be deemed an act of trespass.

Properties adjoining or in the vicinity of the railway are frequently the subject of obligations, rights, exceptions and reservations for the benefit of Network Rail's land and railway. The applicant must review the title to their property to see whether any such obligations etc exist and ensure that there is no non-compliance or breaches of them or any interference with or obstruction of Network Rail's rights and reservations. If the proposed development would not comply with or would breach any of the terms of the conveyance, the developer must revise his proposals.

The applicant is reminded that each Network Rail has a specific right of way and as such any developer is requested to contact the Network Rail Property Services Team to discuss the impact of the proposal upon Network Rails access.

## 5. BATS AND TREES INFORMATIVE

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

Should any works to mature trees be required in the future (e.g. felling, lopping, crowning, trimming) then this should be preceded by a bat survey to determine whether any bat roosts are present and whether a Natural England European Protected Species Licence is required to lawfully carry out the works. The bat survey should be carried out by an appropriately qualified and experienced ecologist in line with the Bat Conservation Trusts Bat Survey: Good Practice Guidelines (3rd edition).

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

## 6. NESTING BIRDS INFORMATIVE

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



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

All vegetation clearance, tree removal and/or scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. No clearance works can take place within 5m of an active nest.

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

## 7. GENERAL SITE INFORMATIVE FOR WILDLIFE PROTECTION

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

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

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

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

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

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

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

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

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If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed. If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

8. Works on, within or abutting the public highway.

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge)

or

- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or

- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway.

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

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

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

9. Contamination

Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Council's Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committee-services/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

10. Drainage

The outline drainage strategy is acceptable in principle and for this Outline application.

1. The LLFA are aware of some flooding on Station Road. The attenuation must be calculated using the equivalent critical storms.

2. The route of the existing drain or culverted watercourse must be clearly identified and a 3m drainage easement is required for maintenance purposes. Any flows into the existing pond must be maintained to ensure the viability of the asset.

3. Further to paragraph 6.4.10 of the FRA and Drainage Strategy report, at ground exceedance flows can only be fully analysed when a confirmed layout and levels are known.

Shropshire Councils Local Standard D of the SUDS Handbook requires that exceedance flows for events up to and including the 1% AEP plus CC should not result in the surface water

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flooding of more vulnerable areas (as defined below) within the development site or contribute to surface water flooding of any area outside of the development site.

Vulnerable areas of the development are classed by Shropshire Council as areas where exceedance flows are likely to result in the flooding of property or contribute to flooding outside of the development site. For example, vulnerable areas may occur where a sag curve in the carriageway vertical alignment coincides with lower property threshold levels or where ground within the development slopes beyond the development boundary.

Contour and/or exceedance route plans must be submitted for approval demonstrating that the above has been complied with and that there is sufficient provision to remove surface water from the highway to the underground piped system.

4. In order to develop the surface and foul water designs for each phase, to satisfy the LLFAs requirements, reference should be made to Shropshire Councils SuDS Handbook which can be found on the website at

<https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

The Appendix A1 - Surface Water Drainage Proforma for Major Developments must also be completed and submitted for each phase.

11. Severn Trent Water - Comments:

STW would not permit a surface water discharge into the public combined sewer, and recommend the applicant seeks alternative arrangements - please note, STW would insist soakaways and other SUD techniques are investigated before considering a discharge to the public surface water sewer with restricted rates.

STW would strongly recommend the Developer/Applicant to make contact with STW and look to submit a Development Enquiry for this development site; this will discuss the drainage proposals for site, and if any issues, look to resolve them. It is best to visit our website:

<https://www.stwater.co.uk/building-and-developing/new-site-developments/developer-enquiry/> and follow the application form guidance to begin this process.

**IMPORTANT NOTE:** This response only relates to the public wastewater network and does not include representation from other areas of Severn Trent Water, such as the provision of water supply or the protection of drinking water quality.

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## AGENDA ITEM



Committee and date

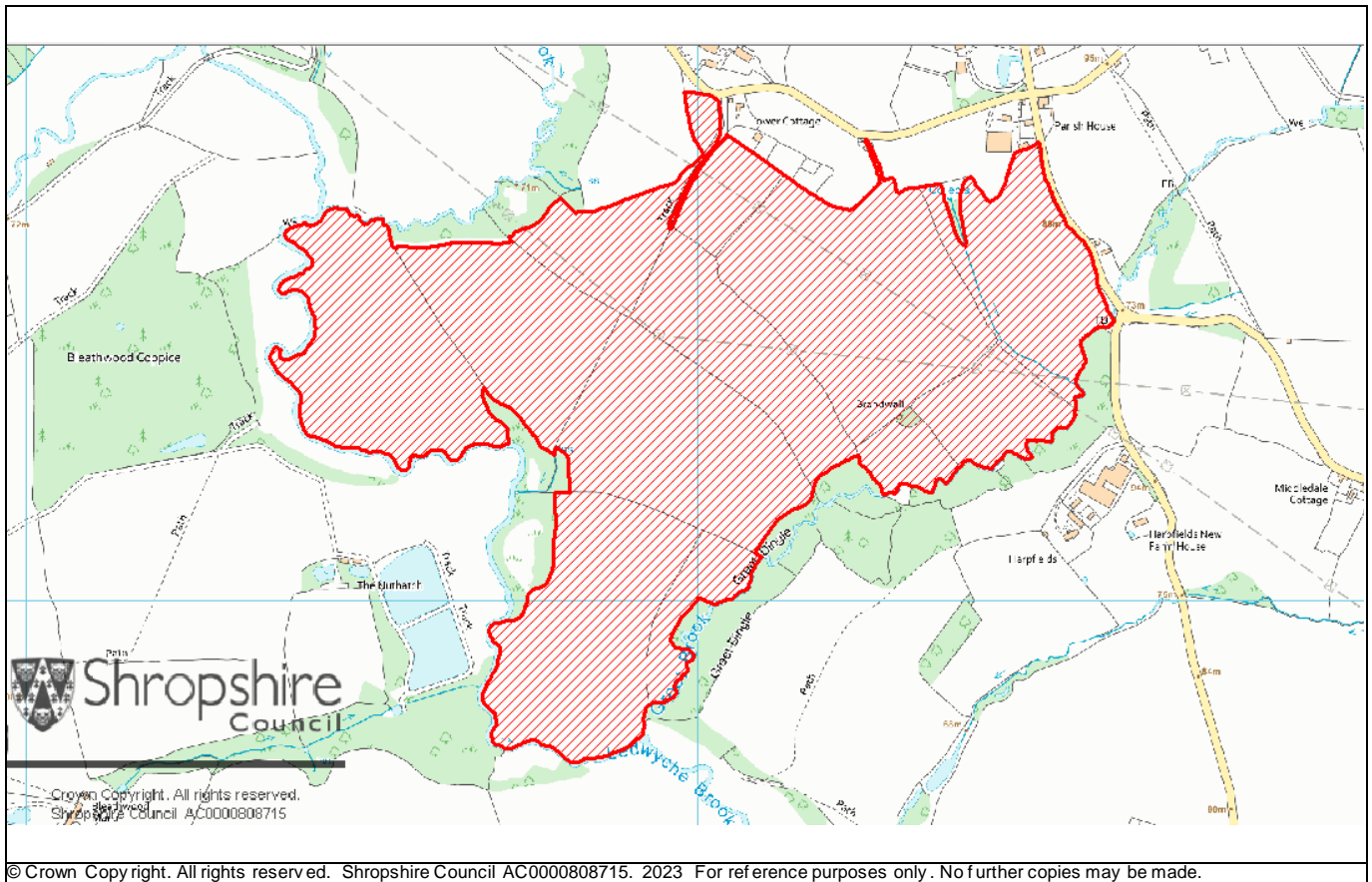
21st May 2024

### Development Management Report

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

#### Summary of Application

<b>Application Number:</b> 24/00764/VAR	<b>Parish:</b>	Burford
<b>Proposal:</b> Variation of Condition 2 (approved plans) and removal of Condition 17 (food production) of planning permission No. 22/02565/FUL		
<b>Site Address:</b> Brick House Farm Greete Ludlow Shropshire SY8 3BZ		
<b>Applicant:</b> Mr Alan Connolly		
<b>Case Officer:</b> Louise Evans	<b>email:</b> Louise.m.evans@shropshire.gov.uk	
<b>Grid Ref:</b> 357655 - 270872		



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

## REPORT

### 1.0 THE PROPOSAL

1.1 The application seeks to remove a condition (17) which required four 'food opportunity areas' to be established and operated within a solar farm development. The proposal to remove this condition will also require a revision to the some of the approved plans and therefore a variation to condition 2 of the consented scheme.

1.2 Condition 17 is drafted as follows:

*1a. The four locations defined on the approved layout plan as 'food opportunity areas' shall be maintained free of solar arrays and shall be managed with the objective of producing food where practicable throughout the operational life of the solar farm hereby approved.*

*b. Six months following site energisation / commissioning of the development a scheme detailing cultivation proposals for the food opportunity areas shall be submitted for the written approval of the Local Planning Authority, not to be unreasonably withheld, and the approved scheme shall be implemented in accordance with the approved details.*

*c. The operator shall maintain an annual records of food production within the food opportunity areas, following the first year's harvest and this shall be made available for inspection by the Local Planning Authority within two months of any prior written request.*

*d. In the event that any material changes are proposed to the previously agreed scheme within the food opportunity areas then such proposals shall be submitted for the prior written approval of the Local Planning Authority, not to be unreasonably withheld, and the amended proposals shall be implemented in accordance with the approved details.*

*Reason: To preserve the use of Best and Most Versatile land within the Site for food production in accordance with Paragraph 174b of the NPPF or any subsequent equivalent re-enactment of this national guidance (having regard also to draft policy DP26.k. of the emerging Shropshire Local Plan).*

## **2.0 BACKGROUND**

2.1 The original application was considered by the Committee on 27th September 2022 when Members resolved to defer the proposals to allow the applicant to investigate whether it would be possible to remove the best and most versatile agricultural land ('BMV') from the scheme.

2.2 The application was re-considered at Committee on 21<sup>st</sup> October 2022 where the applicants presented a revised scheme containing the 'food opportunity areas' generally on the grade 3a land within the site. The grade 2 land within the site was already designated as Biodiversity Enhancement Areas rather than solar for use. This change resulted in 95% of the solar farm scheme being on non BMV land. The committee resolved to approve the scheme subject to the condition in question.

2.3 The amendments to the scheme to include the 'food opportunity areas' resulted in a loss of 5MW of the solar farm capacity, which, according to the applicant, would have provided enough electricity to power the equivalent of 1,500 homes. (The scheme retained a significant capacity of 45MW which is sufficient to power 13,500 homes).

## **3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION**

3.1 The Parish Council comments are at variance with the Officer view. The Chair of the South Planning Committee, in consultation with the Development Manager South, consider that material planning considerations are raised which warrant consideration by the South Planning Committee.

## **4.0 COMMUNITY REPRESENTATIONS**

### **4.1 Consultee comments**

4.1.1 Greete Parish Meeting - objection:

Greet Parish meeting are unhappy with the process under which the application

has been submitted and object on the basis that the decision would be contrary to the commitment from government to protect farmland and to utilise brownfield land. It is also believed that that the applicants have made misleading claims.

## 4.2 **Public comments**

4.2.1 13 representations of objection have been received. The matters raised are summarised below:

- The development is contrary to government guidelines.
- Better alternatives exist than the use of BMV agricultural land for solar energy generation.
- Contrary to previous decision which makes a mockery of the previous decision.
- BMV land must be utilised for food production.
- The change to the application is only sought for financial gain.
- Query the assertions made by the application.
- Believe that the applicants have made misleading claims.

## 5.0 **THE MAIN ISSUES**

Whether the benefits of the development outweigh the loss of production of areas of best and most versatile agricultural land within the development site.

## 6.0 **OFFICER APPRAISAL**

6.1 The applicant has exercised their right to have this matter reconsidered and the Planning Authority are obliged to determine the case taking account of any new evidence that may be available or presented. It does not necessarily follow that taking a different view to that previously resolved suggests that the Council should not have attached the condition in the first place.

6.2 Furthermore, in the consideration of a section 73 application, the local planning authority must only consider the disputed conditions that are the subject of the application, it is not a complete re-consideration of the application. The options available to the decision makers are to approve the permission and remove the condition, vary the condition, or to refuse permission. Under all circumstances, the previous permission will continue to exist.

6.3 The starting point for decision making is the development plan and any other material considerations. With regards to the development plan, CS Policy CS6 seeks to make efficient use of land and safeguard natural resources including high quality agricultural land. This indicates that the use of BMV agricultural land does need to be taken into account in decision making.

6.4 With regards to material considerations, paragraph 180b of the Framework states that planning decisions should take into account the economic and other benefits of the best and most versatile (BMV) agricultural land. Further guidance regarding the use of BMV land is provided in footnote 62 of the Framework. This footnote is



linked to paragraph 181 not 180b, and the former relates to plan making not decision taking. However, even if it is considered to be relevant to decision taking, it simply indicates that the availability of land for food production is a consideration to be taken into account, it does not prevent the use of such land for non-agricultural purposes.

- 6.5 The Written Ministerial Statement on solar energy (25 March 2015) indicates that the use of BMV land for solar farms has to be justified by the most compelling evidence. In addition, The Planning Practice Guidance (PPG) on renewable and low carbon energy, which also dates from 2015, provides a list of planning considerations that relate to large scale ground mounted solar photovoltaic farms. These include: encouraging the effective use of land by focussing such developments on previously developed and non-agricultural land provided it is not of high environmental value; and where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.
- 6.6 Drawing these threads together, none of the documents, in particular the development plan, place an embargo on the use of best and most versatile agricultural land but they do make it clear that the use of BMV land for non-agricultural purposes is a matter for consideration in the determination of such applications. The weight afforded to this issue being a matter for the decision maker. In this instance, the case was determined with a condition that required the majority of the grade 3a agricultural land on the site to remain free from equipment associated with the solar farm and for these areas to continue to be put to use for food production.
- 6.7 Paragraph 56 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:
1. necessary;
  2. relevant to planning;
  3. relevant to the development to be permitted;
  4. enforceable;
  5. precise; and
  6. reasonable in all other respects.

6.8

These are often referred to as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply. In this case, the applicant is calling into question whether condition 17 is necessary and reasonable.

6.9

Part of the applicant's case is that there would be technical and financial barriers to

the 'food opportunity areas' (FOAs) in that each area would require access and fencing and that there are also significant risks in allowing unqualified personnel into the site which would have implications for risk management and insurance.

6.10

Except that there may be a cost implication to this condition, all of these matters raised by the applicant are disputed. Access would be required to the FOAs but so would access to other parts of the site for installation and maintenance and it has not been demonstrated why similar accesses could not be used/provided for both.

6.11

Furthermore, depending on type of farming proposed, fencing would not necessarily be required. For instance, fencing may be required to contain livestock but if the land were to remain in arable production the need for fencing would cease and this argument could not be sustained.

6.12

With regards to access for unqualified personal not being acceptable from a risk management perspective, it is interesting to note that the original submission and this current application suggest that the land between panels would continue to be used for grazing livestock (sheep), however, based on the applicant's claim that they would not be able to provide access to 'unqualified personnel', this would appear not to be the case as surely sheep farming would require access by farmers too. From further discussions with the applicant, it has been indicated that around 50% of the solar farms they manage provide for sheep grazing for at least part of the year. The current scheme has also been designed to enable such to occur and as it is a common practice across a number of their sites, they already have insurance contracts in place to facilitate this and the potential risks have been quantified the FOAs would require bespoke contracts as they differ from standard practice and therein lies the difference between the two.

6.13

Furthermore, it is suggested that the current condition requires the yearly submission of food production records to the Council and that the agricultural use must be successful. Again, this is not the case. The condition requires evidence of active commitment to utilise the food production areas for agriculture and the keeping of records. This requires agreement with a farmer but other than suggesting that the land would not be desirable to farmers as they are isolated parcels of land within an operational solar farm, it is not clear whether any real attempt has been made to seek to find a partner that could successfully farm the food opportunity areas.

6.14

What does have greater weight with regards to the applicant's argument that the condition should be removed is reference to more recent decision making by Shropshire Council. In particular, reference has been made to application 22/03486/FUL at Land South of Withington which was granted permission in April 2023 (43% of this solar farm was Grade 3a BMV land which amounted to 19.5ha of the site) and application 22/03068/FUL at Land South of Holyhead Road which was granted planning permission in June 2023 for a solar farm on a 54.7ha site following a resolution to grant from committee on 15<sup>th</sup> November 2022 (94%

(51.2ha) of the land was BMV, 65% (35.3ha) of which was Grade 1 or 2 agricultural land).

6.15 With regards to latter case, it is noted that the Council sought Counsel advice before the application was approved which set out that BMV land was not precluded from development and that the wording of the NPPF does not amount to an instruction to refuse applications involving the loss of BMV. Instead, it is a matter for the decision maker to weigh the harms against the benefits in the planning balance. It was further noted that the site would provide a continued agricultural use in the form of sheep grazing. The approval contained no requirement for any of the land to remain in agricultural use or include areas such as FOAs.

6.16 More recently, Shropshire Council has seen this issue raised again in a number of planning appeals (Appeal Ref: APP/L3245/W/23/3329815 Land to the South of Hall Lane, Kemberton, Telford, TF11 9LB Decision date: 22nd February 2024, Appeal Ref: APP/L3245/W/23/3332543 Land west of Berrington, Shrewsbury, Shropshire, SY5 6HA Decision date: 26th March 2024 and Appeal Ref: APP/L3245/W/23/3314982 Land to the East of Squirrel Lane, Ledwyche, Ludlow, Shropshire SY8 4JX Decision date: 7 July 2023).

6.17 Within all the appeal decisions the inspectors attributed substantial weight to the benefits of the schemes with regards to renewable energy production and, at best, only moderate weight to the loss of production on best and most versatile agricultural land.

6.18 Within the appeal at Kemberton, the inspector did not give any weight in the planning balance to the use/loss of BMV land, commenting '*Overall, I am satisfied that the proposal would not result in the temporary or permanent loss of agricultural land as the land could continue to be used for some agricultural purposes whilst also being used to produce solar energy. Nor would the proposal be detrimental to the quality of the land, so a return to agricultural use at a later date would still be possible.*' No conditions requiring the land to be used for agricultural purposes were attached in this instance.

6.19 However, in relation to the Ledwyche scheme, the inspector noted that sheep grazing is a matter that could be addressed with the imposition of a planning condition and attached the following condition to that permission:  
*Prior to the Commencement Date the developer shall submit for the approval in writing of the local planning authority a scheme setting out the measures which shall be undertaken to facilitate sustainable sheep-grazing between the solar arrays, including grass sward specification and potential stocking type and density, for the duration of the operational life of the development. The scheme shall be implemented in accordance with the approved details and confirmation that the approved measures are being implemented shall be provided to the local planning authority upon prior written request.*

6.20 Therefore, in determining the current application, officers consider that the applicant's arguments around why the condition is not reasonable are not well founded, however, what could be attributed greater weight, is that reversion of the scheme to its original form (without the food opportunity areas) would enable greater energy production from the development, amounting to an additional 5MW in this instance. In recent decision making on solar farm schemes containing BMV land, energy production has been given greater weight in the planning balance than the continued use of the land for food production, noting in all cases that agricultural use could continue to occur in the form of sheep grazing and that the operational life of a solar farm is not permanent.

6.21 The current application has been submitted on the basis that the condition should be removed in its entirety to accord with more recent decision making by Shropshire Council. This being the case, the only mitigating factors in the determination of the application are that the operational life of the proposal is not permanent (40 years) and as such does not result in the permanent loss of the land or its quality and that the BMV land amounts to an insignificant amount of the BMV land both locally and nationally. (Members should note that the approved scheme does contain a planning condition that limits the lifespan of the scheme to 40 years and requires the land to revert to agricultural use after this time). Furthermore, the omission of a condition requiring sheep grazing would not prevent agricultural use during the operational life of the solar farm, simply that the matter would be in the control of the developer/landowner.

6.22 It is the view of officers that the contribution of an additional 5MW of energy production for this scheme carries greater weight than the temporary loss of BMV land from production of food and the condition should therefore be removed. This recommendation is being made in the light of additional material considerations in the form of recent decision making by both Shropshire Council and planning inspectors. However, the applicant has confirmed that they are prepared to accept a condition, the same as that detailed within the Ledwyche appeal, to provide assurances that the scheme is capable of accommodating sheep grazing and to enable monitoring of such by the Local Planning Authority.

## 7.0 CONCLUSION

7.1 It is the view of officers that, on balance, condition 17 of permission 22/02565/FUL should be varied to enable submission of information with regards to potential for sheep grazing and that condition 2 should be varied to enable the siting of panels on BMV land within the site, as per the original proposals for the scheme, which will enable the production of an additional 5MW of electricity generation from the development. All the conditions set out on the original decision that continue to have effect will be restated on this permission as is required through planning law.

## 8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk management

- 8.1.1 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**

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst 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.

8.2.2 Article 1 also requires that the desires of landowners must be balanced against the impact of development upon nationally important features and on residents.

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

## 8.3 **Equalities**

8.3.1 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**

9.1 There are likely financial implications if the decision and/or imposition of conditions are 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

#### Shropshire Core Strategy:

- CS5: Countryside and Greenbelt
- CS6: Sustainable Design
- CS7: Communications and Transport
- CS8: Facilities, services and infrastructure provision
- CS13: Economic Development, Enterprise and Employment
- CS16: Tourism, Culture and Leisure
- CS17: Environmental Networks
- CS18: Sustainable Water Management

#### SAMDev Plan:

- MD1: Scale and Distribution of Development
- MD2: Sustainable Design
- MD4: Managing Employment Development
- MD7b: General Management of Development in the Countryside
- MD8: Infrastructure Provision
- MD12: The Natural Environment
- MD13: The Historic Environment

#### Emerging Policy:

Regulation 19: Pre-Submission Draft of the Shropshire Local Plan 2016 to 2038

- Policy S2: Strategic Approach
- Policy SP4: Sustainable Development
- Policy SP10: Managing Development in the Countryside
- Policy SP12: Shropshire Economic Growth Strategy
- Policy DP12: The Natural Environment
- Policy DP16: Landscaping of New Development
- Policy DP17: Landscape and Visual Amenity
- Policy DP18: Pollution and Public Amenity
- Policy DP21: Flood Risk
- Policy DP22: Sustainable Drainage Systems
- Policy DP23: Conserving and Enhancing the Historic Environment
- Policy DP26: Strategic, Renewable and Low Carbon Infrastructure

### RELEVANT PLANNING HISTORY:

22/02565/FUL Construction of a solar farm together with all associated works, equipment, necessary infrastructure and biodiversity enhancement areas. GRANT 21st October 2022

## 11. Additional Information

# AGENDA ITEM

- 21st May 2024

Brick House Farm

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S9BOZZTDFXU00>

## List of Background Papers

Planning application reference 24/00764/VAR and plans and supplementary reports.

Cabinet Member (Portfolio Holder) - Councillor Chris Schofield

Local Member

Cllr Richard Huffer

Appendices

APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### Commencement of Development

1. The development hereby approved shall be commenced within 3 years of the date 21st October 2022. Such date shall be referred to hereinafter as 'the Commencement Date'.

Reason: To comply with Section 91(1) of the Town and Country Planning Act 1990 and in recognition of the part-retrospective nature of the development.

#### Definition of the Permission

2. Except as otherwise provided in the conditions attached to this permission the operations hereby permitted shall be carried out strictly in accordance with the application form dated 30th May 2022 and the accompanying planning statement and supporting documents and plans, namely:

##### Documents / Reports:

- o Agricultural land classification report
- o Arboricultural Impact Assessment
- o Badger survey
- o Biodiversity metric
- o Biodiversity management plan
- o Construction traffic management plan (Updated 14/10/22)
- o Flood risk assessment
- o Glint and glare study
- o Heritage desk based assessment
- o Landscape and Visual Impact Assessment (amended)
- o Mineral reserves assessment
- o Noise assessment
- o Public attitudes survey
- o Applicant response to CPRE letter 18/9/22 and 17/10/22
- o Applicant briefing note 5/09/22
- o Access Strategy 17/10/22
- o Arboricultural Method Statement by Barton Hyatt Associates dated August 2023.
- o Written Scheme of Investigation by Cotswold Archaeology dated March 2023.
- o Phase 2 Evaluation Report by Cotswold Archaeology dated May 2023
- o Archaeological Mitigation and Management Plan by Pegasus Group dated 26th July 2023

##### Drawings

- o P21-0442\_01D Site location plan
- o P21-0442\_07 Topography plan



- 21st May 2024

Brick House Farm

- o BKH-DWG002 Engineering layout plan
- o P21-0442\_05E Landscape Strategy
- o P21-0442\_10D Master Site Layout
- o BKH-DWG004 Mounting system details
- o BKH-DWG005 Fencing details
- o BKH-DWG006.1 CCTV Layout
- o BKH-DWG006.2 CCTV details
- o BKH-DWG007.3 Inverter substation
- o 10069-E-SP-01 Electric design overall layout
- o 10069-E-ELV-01 2.4m high palisade fencing
- o 10069-E-SP-02 WPD 132kV Metering substation underground
- o 10069-E-ELV-02 WPD 25m Communications tower
- o 10069-E-GA-02 Customer switchroom
- o 10069-E-GA-06 Customer switchroom elevation
- o 10069-E-GA-05 DNO Switchroom elevation
- o 10069-E-GA-01 DNO switchroom

Reason: To define the permission.

3. This permission shall relate only to the land edged red on the site location plan (Reference P21-0442\_01), hereinafter referred to as 'the Site'.

Reason: To define the permission.

## Highways

4. For the duration of the construction period all traffic associated with (the construction of) the development will comply with the Construction Traffic Management Plan and use only the 'Construction Traffic Access Route' and no other local roads unless approved in writing with the Local Planning Authority.

Reason: In the interests of maintaining highway efficiency and safety.

5. Prior to any construction works taking place and post construction a full condition survey shall be carried out on the route between the site access and the A49.

Reason: In the interest of safety of the users of the public highway and safety of the users of the site

6. No demolition ground clearance or construction works will commence until the Local Planning Authority has approved in writing that the approved Tree Protection Measures have been established in compliance with the final approved tree protection plan.

Reason: To ensure that the Tree protection is set up and maintained in accordance with the Tree Protection Plan

## Landscape and Ecological Mitigation Plan

7a. No development shall take place (including ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- i. Planting plans, creation of wildlife habitats and features and ecological enhancements in accordance with the Biodiversity Management Plan by Avian Ecology.
- ii. Written specifications for establishment of planting and habitat creation;
- iii. Schedules of plants/seed mixes, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- iv. Implementation timetables.

Native species used are to be of local provenance (Shropshire or surrounding counties). The plan shall be carried out as approved.

b. Planting and seeding shall be undertaken within the first available planting season following the completion of construction works and in accordance with a scheme which shall be submitted for the approval in writing of the Local Planning Authority. The scheme shall be implemented in accordance with the approved details. The developer shall notify the Local Planning Authority in writing of the date when planting and seeding under the terms of condition 7a above has been completed.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

8. All new planting within the Site shall be subject to aftercare / maintenance for the lifetime of the development, including weeding and replacement of failures.

Reason: To secure establishment of the landscaped area in the interests of visual amenity and ecology.

## Ecology

9. All site clearance, development, landscaping and biodiversity enhancements shall occur strictly in accordance the Biodiversity Management Plan by Avian Ecology.

Reason: To ensure the protection of and enhancements for habitats and wildlife.

10. No development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- i. An appropriately scaled plan showing 'Wildlife/Habitat Protection Zones' where construction activities are restricted, where protective measures will be installed or implemented;
- ii. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- iii. Requirements and proposals for any site lighting required during the construction phase;
- iv. A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- v. The times during construction when an ecological clerk of works needs to be present on site to oversee works;
- vi. Pollution prevention measures.
- vii. Identification of Persons responsible for:
  - o Compliance with legal consents relating to nature conservation;
  - o Compliance with planning conditions relating to nature conservation;
  - o Installation of physical protection measures during construction;
  - o Implementation of sensitive working practices during construction;
  - o Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
  - o Provision of training and information about the importance of 'Wildlife Protection Zones' to all construction personnel on site.

All construction activities shall be implemented strictly in accordance with the approved plan.

Reason: To protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 175 of the NPPF.

11. Within 28 days prior to any pre-development site enabling works an inspection for badgers and otters shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. If new evidence (further to that submitted in support of the approved planning consent), or a change in status, of badgers or otters is recorded during the pre-development survey then the ecologist shall submit a mitigation strategy for prior written approval that sets out appropriate actions to be taken during the construction stage. These measures must be implemented as approved.

Reason: To ensure the protection of badgers (under the Protection of Badgers Act 1992) and otters (under The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended)).

12. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. The submitted scheme shall be designed to take into account the advice on lighting set out in the Institution of Lighting Professionals and Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK (available at <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>). All external lighting shall be installed strictly in accordance with the specifications and locations set out on the plan, and thereafter retained for the lifetime of the development. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To minimise disturbance to bats, which are European Protected Species [and other species].

### Fencing

13a. Fencing shall be provided strictly in accordance with the details shown on the approved fencing plan reference BKH-DWG005; Fencing Details.

b. Site security shall be provided in accordance with the specifications detailed in the approved drawing reference BKH-DWG006.2 (CCTV Details) and drawing reference BKH-DWG006.1 (CCTV Layout).

Reason: In the interests of and visual amenity and privacy.

### Amenity complaints procedure

14. Prior to the Commencement Date the operator shall submit for the approval of the Local Planning Authority a complaint procedures scheme for dealing with noise and other amenity related matters from the construction and operational phases of the development. The submitted scheme shall set out a system of response to verifiable complaints of noise received by the Local Planning Authority. This shall include:

- i. Investigation of the complaint
- ii. Reporting the results of the investigation to the Local Planning Authority
- iii. Implementation of any remedial actions agreed with the Authority within an agreed timescale.

Reason: To put agreed procedures in place to deal with any verified amenity related complaints which are received during site operation.

15. Prior to the Commencement Date the developer shall submit for the approval in writing of the local planning authority a scheme setting out the measures which shall be undertaken to facilitate sustainable sheep-grazing between the solar arrays, including grass sward

specification and potential stocking type and density, for the duration of the operational life of the development. The scheme shall be implemented in accordance with the approved details and confirmation that the approved measures are being implemented shall be provided to the local planning authority upon prior written request.

Reason: To allow the site to be utilised for agriculture during the planned design life of the development and to afford the Local Planning Authority the opportunity to monitor this.

### Final decommissioning

16. All photovoltaic panels and other structures constructed in connection with the approved development shall be physically removed from the Site within 40 years of the date of this permission and the Site shall be reinstated to agricultural fields. The Local Planning Authority shall be provided with not less than one week's notice in writing of the intended date for commencement of decommissioning works under the terms of this permission.

Reason: To allow the site to be reinstated to an agricultural field capable of full productivity at the end of the planned design life of the development and to afford the Local Planning Authority the opportunity to record and monitor decommissioning.

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## AGENDA ITEM



Committee and date

**Southern Planning Committee**

**21st May 2024**

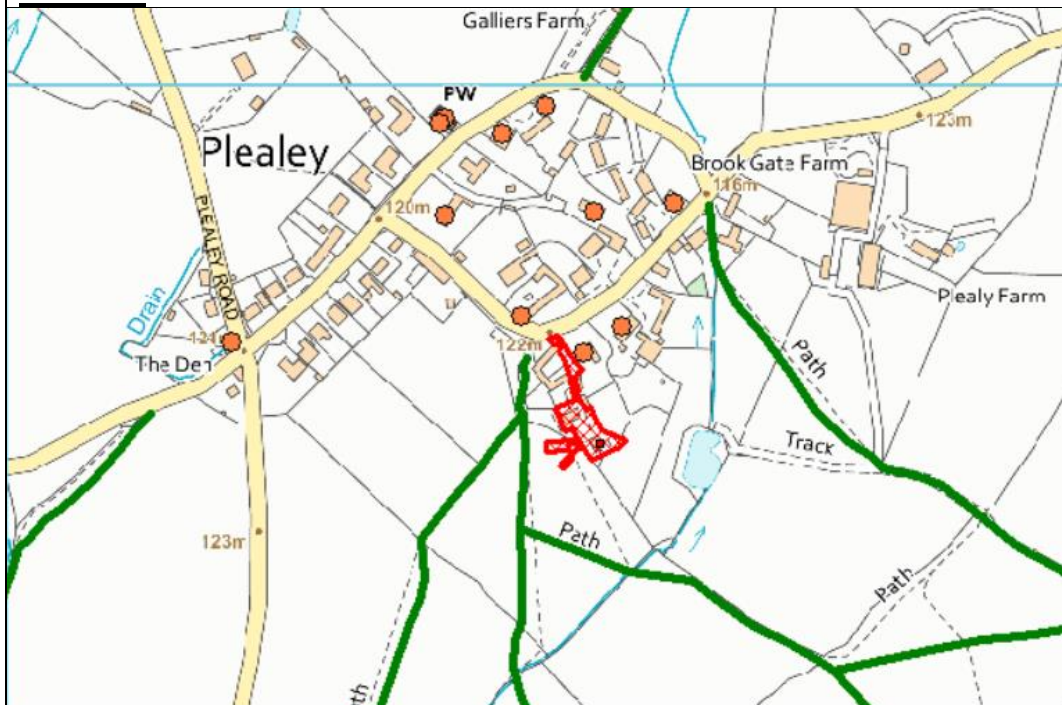
### Development Management Report

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

#### Summary of Application

<b><u>Application Number:</u></b> 24/00121/FUL	<b><u>Parish:</u></b>	Pontesbury
<b><u>Proposal:</u></b> Erection of a detached dwelling and conversion of Dutch barn to form garage/garden store		
<b><u>Site Address:</u></b> Proposed Residential Dwelling South Of Plealey Shrewsbury Shropshire		
<b><u>Applicant:</u></b> Mr C Willner		
<b><u>Case Officer:</u></b> Alison Tichford	<b><u>email:</u></b> <a href="mailto:alison.tichford@shropshire.gov.uk">alison.tichford@shropshire.gov.uk</a>	

**Grid Ref:** 342453 - 306727



## Recommendation:- Refuse

### Recommended reasons for refusal

1. The proposed site for a new open market dwelling falls outside any location considered sustainable within the local plan and falls within the policy considerations applicable to open countryside where new open market residential development is not generally acceptable subject to some limited exceptions. The guideline figures for new housing in the surrounding area are on target to be easily reached. Given the healthy state of the Council's current five-year housing land supply position, the proposal is not necessary to meet Shropshire Council housing development needs, and its approval would undermine the Council's strategy for the location of housing. Any economic or social benefits would be small in scale and largely private rather than contributing to the community and while the design of the dwelling may provide some small environmental benefits there are greater environmental costs in terms of sustainability, landscape and heritage such that the balance of material considerations would not support approval under CS5 or justify a departure from the development plan. As a consequence, open market residential development of the site is contrary to policies CS1, CS5 and CS17 of the Core Strategy, and policies MD1, MD3, MD7A, MD12 and MD13 of the SAMDev Policy, as well as being in conflict with the Pontesbury Neighbourhood Plan and the overall aims and objectives in relation to sustainable development as set out in the NPPF.

2. The proposed dwelling and associated infrastructure and paraphernalia would be a jarring new domestic built form to the rear of the established building line to the north and would protrude into and unacceptably impact upon the green space which contributes to views into and out of the Conservation Area. The design of the dwelling and the garage conversion of the barn would contrast uncomfortably with existing heritage assets to the north and there would be unacceptable visual and landscape impacts on the surrounding high quality rural landscape, as well as a view highlighted and protected within the Pontesbury Neighbourhood Plan. There are no significant public benefits which would outweigh this impact. The proposed development would be contrary to policies CS6 and CS17 of the SC Core Strategy and policies MD2, MD12 and MD13 of the SC SAMDev plan which all seek to ensure that development conserves and enhances the natural, built and historic environment and local character.

## REPORT



## 1.0 THE PROPOSAL

- 1.1 The application proposes the erection of a new open market detached 2-bedroom dwelling with floor area of 180sq.m appx. and the conversion of a Dutch barn to form a garage/garden store.
- 1.2 The site has been subject of a previous appeal decision following the refusal for the proposed conversion of the Dutch barn to a dwelling. (APP.L3245/W/21/3276390) The appeal was dismissed (and is attached as appendix 1 of this report)

## 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposed site lies within the Plealey Conservation Area which extends beyond the dwellings clustered around the roads through the village to include the fields beyond in order to retain the rural setting of the village.
- 2.2 The dwelling will be accessed from the 60mph C classified road which runs through Plealey and will be set back appx. 83m from this road. The access from the road is already used by the listed farmhouse adjacent and by residents of a converted barn building, as well as by farm vehicles, although there is an additional access for farm vehicles from the classified road.
- 2.3 The site lies in close proximity to the rear of grade II listed buildings - The Old Farmhouse and Red House, and there are further listed buildings to the north of the C road through the village. The land does not appear to have any continued association with any farmhouse but is part of a larger area of agricultural land adjacent owned by the applicant.
- 2.4 There are existing late C20 sheds on the site (to be demolished) as well as the large mid C20 open-sided Dutch Barn.
- 2.5 The site is appx 200m to the east of the boundary of the Shropshire Hills National Landscape and there are far reaching views to the south across the lands of Longden Manor.

## 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council and Local Member have submitted a view contrary to officers based on material planning reasons, the contrary views cannot be overcome by negotiation or the imposition of planning conditions and the Planning Services Manager in consultation with the Committee Chairman and Local Member agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

## 4.0 Community Representations

### 4.1 Consultee Comment

- 4.1.1 SC Environmental Protection – the proposed development is in a development low risk area and therefore a mine gas risk assessment should be required by pre commencement condition.
- 4.1.2 SC Ecology - no objection subject to conditions and informative advice to ensure the protection of wildlife and to provide biodiversity enhancements.
- 4.1.3 SC Conservation – no objection but raise previous appeal and potential policy issues.
- 4.1.4 SC Trees – no objection subject to pre-commencement conditions
- 4.1.5 SC Archaeology - no objection subject to a pre commencement condition requiring a programme of archaeological works.
- 4.1.6 SC Flood and Water Management – no objection subject to a pre commencement condition
- 4.1.7 SC Highways - no objection subject to improvements to the existing access to give better visibility (as mentioned in Planning Statement but no detail provided).

## 4.2 Public Comments

- 4.2.1 Pontesbury Parish Council have made comments in support of the application on grounds as follows:
  - Sustainable development which will help to achieve a balance of housing type in Plealey in line with CS11.
  - Pontesbury Neighbourhood Plan highlights the need for single-storey dwellings in the parish.
  - Will enable the retention of the Dutch barn which is part of the character of the Conservation Area and a heritage asset.
  - There will be no significant impact on the neighbouring listed building or the character of the Conservation Area
  - Design will ensure it sits fairly unobtrusively in the landscape and conservation area.
  - Previously developed brown field site

The Parish Council also strongly supported the replacement of hardwood trees.
- 4.2.2 The local member has also made comments in support of the proposed application.
  - there has been an appropriate response made to comments from the appeal inspector on the previous application.
  - The design is sustainable and aims to be unobtrusive within the overall landscape.
  - Residents consider the development will have no impact on adjoining listed buildings or on the character of the surrounding village and Conservation Area.
  - Pontesbury is within walking distance and many residents do walk there for services.
  - The application will enable the retention of the Dutch barn as a garage/garden store

## 5.0 THE MAIN ISSUES

- 5.1 Principle of development  
Further Considerations
- Sustainable Design
  - Sustainable Location
  - Appropriate Housing Mix and Type
  - Retention of the Dutch barn
  - Use of “brownfield” site
  - Housing Supply
  - Visual impact
  - Scale, design and landscaping
  - Impact on heritage assets
  - Highways
  - Fire Safety
  - Residential Amenity

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 Para 11 of the revised NPPF indicates that if the local development plan is up to date, the presumption in favour of sustainable development is satisfied by the approval of development proposals that accord with it and Paragraph 12 clearly states that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted, unless material considerations in a particular case indicate that the plan should not be followed.
- 6.1.2 Core Strategy Policies CS1, CS2, CS3, CS4, and CS11 seek to steer new housing to sites within market towns, other ‘key centres’ and certain named villages (‘Community Hubs and Clusters’). Shropshire Council’s SAMDev Plan MD1 and Settlement Policies S1 through S18 indicate those locations considered sustainable and capable of supplying additional housing throughout the plan period.
- 6.1.3 The site lies outside any development boundary and does not fall within a hub or cluster settlement. The site is therefore considered as falling within open countryside where open market housing is generally resisted (CS5, MD2, MD7a)
- 6.1.4 SAMDev Policy MD3 allows some potential for housing outside defined settlement boundaries where the settlement housing guideline is unlikely to be met but in this case housing requirements for Pontesbury have been met and significantly exceeded.
- 6.1.5 CS Policy CS5 highlights that new development will be strictly controlled to protect the countryside in line with national policy, but that proposals on appropriate sites which maintain and enhance the countryside vitality and character may be permitted if they improve the sustainability of rural communities by bringing local economic and community benefits. Open market housing does not appear in the list of potential examples and MD7A highlights that new market housing will be strictly controlled in areas outside hubs and clusters with only exception site dwellings,

rural worker dwellings and residential conversions to meet evidenced local housing needs indicated as potential permissible development.

- 6.1.6 Policy CS11 is closely linked with the Strategic Approach (Policy CS1) and with CS5, and together these aim to ensure that the development that does take place in the rural areas is of community benefit with local needs affordable housing a priority.
- 6.1.7 The Pontesbury Neighbourhood Plan confirms that outside of Pontesbury village the rest of the parish is classified as open countryside which means that development is strictly controlled and that this policy plays a crucial part in safeguarding the rural nature of the area. The Plan's vision statement seeks for new development to be mainly confined to Pontesbury village.
- 6.1.8 Therefore, by virtue of its location outside of any defined settlement boundary, the appeal site would not be a suitable location for the proposal, having regard to the development strategy for the area. Consequently, it would conflict with CS Policies CS1, CS5 and CS11 as well as SAMDev Policies MD1, MD3, and MD7A, which, amongst other things, seeks to direct housing development to sustainable locations.

## 7.0 Further Considerations

### 7.1 Sustainable Design

- 7.1.1 The dwelling is proposed with inset solar panels to the roof and ground source heating. While no information is provided with regard to the impact of these measures upon the energy needs of the dwelling as designed, these benefits offer some modest support to the proposed development – although the solar panels may lead to a little additional prominence within the rural landscape. There are no biodiversity concerns subject to appropriate conditions to ensure protection and enhancements.

### 7.2 Sustainable location

- 7.2.1 As discussed above, local housing strategy would regard the site as not in a sustainable location. The Council is satisfied that it is able to demonstrate a deliverable 5-year housing land supply to meet the housing need through the sites identified within the SAMDev Plan. Consequently, the Council's policies on the amount and location of residential development can be regarded as up-to-date and the presumption with regard to sustainable development contained in paragraph 11(d) of the NPPF is not engaged.
- 7.2.2 The applicant has however sought to respond to the earlier appeal inspector's comment that no evidence had been provided to suggest the site is close to accessible infrastructure services and employment areas.
- 7.2.3 The planning statement seeks to rely on permissions 14/02854/OUT and 15/00191/OUT. However, both these applications pre-date the previous 2021 appeal decision where the Inspector gave 14/02854/OUT little weight and were determined before full weight could be attributed to the housing supply strategy outlined in the SAMDev. The NPPF has since highlighted that the three elements of

- sustainability are not for consideration on every decision, and that fit with the local housing strategy is sufficient to determine sustainability.
- 7.2.4 The applicant also seeks to use two recent appeal decisions in support of the application; however, the proposed development sites were of quite a different nature than in the current application, with services and facilities readily available. In APP/L3245/W/21/3288834 a rare open market development was supported by the appeal inspector, the proposed development was within/immediately adjacent to a community hub and within walking distance of existing services and facilities, while in APP/L3245/W/22/3310764, the proposed site was considered to be fully contained by existing residential development in Hadnall, lacking any visual connection to the broader countryside beyond, within easy reach of local services and facilities in Hadnall itself, and with accessible public transport to other villages. (Hadnall is also promoted as a community hub in the emerging local plan)
- 7.2.5 This site lies beyond the existing building line at Plealey within the fields which form part of the Conservation Area and Plealey itself has no facilities or services and limited employment opportunities. The Plealey Conservation Area appraisal document confirms that additional housing is not supported under the local plan and that the size of the village and poor provision of local services would mean that sustainable development would be difficult to achieve.
- 7.2.6 The local member has stated that Pontesbury is within walking distance and that local residents do walk there for services.
- 7.2.7 The facilities at Pontesbury are appx. 2.7km away by road and the nearest public transport would require a 1.5km walk along unlit rural roads with no pavements. While there are some public footpaths to Pontesbury across the fields and over the hills these will not be suitable for use in all weathers and unlikely to be suitable for shopping trips given the tricky terrain and heavy burdens on the return journey, as well as the return trip taking perhaps 3 hours rather than the 20-25 minute there and back journey by car.
- 7.2.8 While pedestrians and cyclists do sometimes use the roadways there are no pavements and no cycle ways and the roads out of Plealey are narrow and high hedged. The inspector making the judgement on the 2021 appeal on this site noted that rural roads in the immediate vicinity leading to other settlements lack continuous pedestrian footways and adequate lighting. The Inspector felt that this together with the distances to larger towns and higher order settlements would likely make options to walk and cycle undesirable to potential occupiers as a regular and sustainable means of travel and would be harmful as it would encourage car use.
- 7.2.9 The development would therefore be contrary to the aims of the NPPF, the local plan, Zero Carbon Shropshire and seems to run counter in this regard to Policy GRE4 (Carbon Reduction) of the Pontesbury Neighbourhood Plan which indicates support for development proposals which support the transition to net zero.
- 7.2.10 There is no compelling reason to alter from the previous Inspector's conclusion that the site would conflict with the Council's settlement strategy as set out in policies CS1, CS5, CS11, MD1 and MD7a which seek to locate new homes where there is ready access to services and facilities. The Inspector also considered that the

development would conflict with s.9 of the NPPF which promotes opportunities to maximise sustainable transport solutions in decision making and overall attributed substantial weight to the harm identified.

### 7.3 **Appropriate housing mix and type**

- 7.3.1 The Parish Council has indicated support on the basis that the development will help to achieve a balance of housing type in Plealey in line with CS11 and that the Pontesbury Neighbourhood Plan highlights the need for single-storey dwellings in the parish
- 7.3.2 There is no policy within the Pontesbury Neighbourhood Plan which provides support for single storey dwellings in Plealey – policy HOU2 offers a measure of support for these in Pontesbury itself but remains subject to clear local evidence of housing need. In any case, there is an existing supply of single storey accommodation available within Plealey and no established evidence of a local housing need.
- 7.3.3. While CS11 does seek to balance housing types this is not sought in isolation from the remainder of the housing strategy and within open countryside any such development would be required to be of community benefit with local needs affordable housing a priority.
- 7.3.4 There is no indication that an exception site dwelling is sought and while the proposed dwelling is indicated to have only 2 bedrooms, it would have appx. 80sq.m more floorspace than is permitted for a single plot exception site dwelling, as well as a very large garage building of appx. 89sq.m.
- 7.3.5 There would be individual private benefit from the development but no indication of long-term benefits to the community of Plealey and there is no indication that a levy will be payable towards community infrastructure.
- 7.3.6 The provision of a large single storey dwelling and store building in Plealey will not significantly alter the existing balance of housing types and will provide no public community benefit to counter the proposed development's conflict with local housing strategy.

### 7.4 **Retention of the Dutch Barn**

- 7.4.1 It is proposed to convert an existing dutch barn into a garage/store building for the new dwelling and this may have incidental public cost or benefit.
- 7.4.2 The existing dutch barn has appx 89sq.m of ground floor space, is 7.5m high, appx 13.9 long x 6.4m appx deep. The plans show one short clad wall, but a site visit indicates one long wall has recently also been clad in new materials.
- 7.4.3 The local member and parish council comment that the proposed development will enable the retention of the dutch barn already on site by conversion to a garage/garden store.
- 7.4.4 The dutch barn does perhaps make a small contribution to the visual landscape here in its existing form as part of the view towards the historic farmstead, although it does also restrict views and is rather dominant even in its current open sided form, but the proposed alterations are extensive and go beyond a conversion in both national and local policy terms and will not retain the existing character of the

barn: the openness of the current structure softens its height a little providing views through to the buildings beyond, and also evidences its agricultural purpose as an open hay bale store within the context of the designated heritage assets to the north.

- 7.4.5 While the applicant's submitted heritage impact assessment does consider the dutch barn to be a non-designated heritage asset, a very similar heritage impact assessment by the same author with limited alteration was available to the previous appeal inspector (with regard to conversion to a dwelling) who considered that while the barn might be of appropriate age and materials, it "did not exhibit any architectural details of particular significance or aesthetic value and that its design was common to rural locations." The Inspector considered the barns skeletal design did not "lend itself to a straightforward conversion scheme and that filling in the open spaces within the framing would accentuate the bulk and mass of the building relative to other prominent nearby former farmstead brick buildings with obvious heritage and aesthetic value and would urbanise the site so as to make it unsympathetic to the existing rural surroundings in which it was viewed and make it incongruous to the area's most positive and distinctive qualities", "with no significant public benefit or visual improvement as a result of the conversion.
- 7.4.6 While the barn would now be converted to an incidental building, it would provide a very tall and large building for these purposes and the works would involve significant alteration in a location distant from services and facilities, (contrary to policy LAN2 of the Pontesbury Neighbourhood Plan), with a correspondingly significant alteration to its existing character and visual impact with regard to heritage assets and landscape.
- 7.4.7 There is no substantial reason to disagree with the previous appeal Inspector that a proposed conversion of the barn would be harmful to the character and appearance of the existing building and rural area, in conflict with CS5. The potential future loss of the building if no longer useful for agriculture would not be appropriately compensated by its consolidation into a building of new character incidental to a new dwellinghouse.
- 7.4.8 The barn could be retained in its current form as a covered parking area if wanted, but the proposed conversion to a garage does not provide any public benefits to outweigh conflict with local housing strategy.
- 7.5 **Use of "brownfield" site**
- 7.5.1 The Parish Council supports the application on the basis that it makes use of a "brownfield" site. There is no evidence of any other use other than agriculture or of any contamination or need for restoration. The NPPF definition of previously developed/brownfield land excludes land that is or was last occupied by agricultural buildings. The existing buildings are appropriate to the context and any disrepair would not be so significant as to justify their replacement contrary to local housing strategy.
- 7.6 **Housing Supply**

7.6.1 The delivery of a single, single storey open market dwelling would make a very modest contribution to boosting housing supply and correspondingly modest weight is attached to this benefit.

## 7.7 Visual impact

7.7.1 Policy CS17 requires that all development protects and enhances the high quality and local character of Shropshire's natural and historic environment.

7.7.2 The conservation area of Plealey is highlighted within the Pontesbury Neighbourhood Plan as an outstanding heritage asset of the Parish.

7.7.3 Policy LAN 1 of the Pontesbury Neighbourhood Plan indicates support for policy compliant development which maintains or where possible enhances the landscape character of the parish, and policy LAN3 seeks respect for some highly valued amenity views, one of which views is that from the footpath next to Red Barn, where it is highlighted that safeguarding this view will provide an extra layer of protection for the setting of Plealey Conservation Area. .

7.7.4 The Plealey Conservation Area appraisal document highlights that the fields within the Conservation Area to the northeast and south of Plealey form the foreground to the village as it is approached from the surrounding area by road/foot and give Plealey its distinctive rural character. It goes further in confirming that these green field spaces help to maintain the soft boundary that exists between village and countryside and permit excellent views both in and out of the Conservation Area as they allow the countryside to penetrate and break up the pattern of the settlement.

7.7.5 While the new dwelling will replace existing agricultural barns of no particular merit, the latter do currently form part of the rural setting to the Conservation Area, whereas the proposed new dwelling will extend residential development and accompanying domestic paraphernalia further south than the existing historic building line and impact therefore upon the appreciation of the heritage assets, particularly in views from the south and west, and local footpaths.

7.7.6 The proposed development will not protect and enhance quality and character of the landscape here contrary to CS17 and policy LAN1 of the neighbourhood plan and will have some particular impact with regard to the view from land adjacent and protected under policy LAN3 of the neighbourhood plan.

## 7.8 Design, Scale and Landscaping

7.8.1 The application proposes a low contemporary styled dwelling with multiple mono-pitched roofs in stone and timber as well as the filling in of the walls to the Dutch barn and the introduction of glazing and garage doors. The dwelling will offer appx. 185 sqm floorspace and be of moderate 5.7m height while the garage will have a further 89sq.m floor area and be appx. 7.2m tall.

7.8.2 The application could be improved perhaps by providing a traditionally laid hedge to the rear boundary as the Conservation Area Appraisal notes that these are an essential characteristic of back gardens adjoining the countryside, together with brick and stone boundary walls to the front of properties. Any improvements to the access would require consideration with a view to retaining existing walling.



- 7.8.3 Further improvements could be made by providing a tree planting plan to replace the ash tree which is to be felled and the hedgerow removal. The TPP and method statement demonstrate that remaining trees can be protected adequately, but further details would be required by condition with regard to the no dig method proposed.
- 7.8.4 Overall, however, as outlined earlier, while there are a variety of housing styles, there are very few new buildings within the Conservation Area, and at this particular location officers consider the development does not respond appropriately to the form and layout of the existing development, extending beyond the existing perimeter build line, contrasting significantly with the red brick heritage assets at this southern boundary, and with the filled in Dutch barn providing an overly large garage building which will be quite altered in character. This conclusion is in line with the previous appeal inspector's finding that the conversion of the barn by itself would be incongruous to the area's most positive and distinctive qualities and harmful to the character and appearance of the existing building and rural area and that potential enhancements in building materials and landscaping would not alleviate their concerns. The new development will not enhance the natural and built environment and would not satisfy CS6, CS17 or MD2 and MD13.
- 7.9 Impact on heritage assets**
- 7.9.1 Section 72(1) of the Town and Country Planning Listed Building and Conservation Area Act 1990 requires that special attention is given to the desirability of preserving or enhancing the character or appearance of Conservation Areas and section 66(1) of the Act requires that special regard is given to the desirability of preserving the setting of listed buildings.
- 7.9.2 On the other hand, para 206 of the NPPF does offer some support for new development within Conservation Areas and within the setting of heritage assets if any development enhances or better reveals the significance of those assets.
- 7.9.3 The heritage impact assessment concludes there is no harm, as defined within the NPPF, to heritage assets but is rather limited in its assessment of the impact of the development on the rural setting of the Conservation Area in consideration of the deliberate inclusion of surrounding fields to provide a rural context to the settlement.
- 7.9.4 Conservation consultees have no in principle heritage objection but have highlighted the previous appeal inspector's decision and local and national policy on new dwellings in the countryside (as outlined above) and are concerned that visual recession should be achieved to minimize and mitigate impact on the heritage assets.
- 7.10 Highways**
- 7.10.1 The applicant has indicated that amendments may be made to the access but has not specified any details. Improvements to the driveway/access seem likely to impact on the gardens to the listed/curtilage listed buildings. The applicant's agent argues that the access is currently served by farm traffic and suggests this will cease/reduce (each indicated in 1 of 2 separate statements) should the dwelling be

approved, which will be of benefit to existing as well as the new dwelling. They also argue that traffic speeds are slow at this point in Plealey, the access is wide enough for 2-way traffic on entering/exit and adequately serves existing dwellings. Highways consultees have no objection subject to further details with regard to access improvements which could be required by condition.

## 7.11 Fire Safety

7.11.1 The access drive to the new dwelling is longer than 45m and at one point is only 2.73m wide with a building wall in the way. This does not meet guidance provided by Shropshire Fire and Rescue with regard to householder safety from fire risk and will likely require further consideration and possible amendments at building regulations stage. Amendments would require further planning permission.

## 7.12 Residential Amenity

7.12.1 The proposed development is at sufficient distance and orientation with regard to nearby dwellings as to be unlikely to create any detriment to residential amenity.

## 8.0 CONCLUSION

8.1 The proposed site for a new open market dwelling falls outside any location considered sustainable within the local plan and falls within the policy considerations applicable to open countryside where new open market residential development is not generally acceptable subject to some limited exceptions. The guideline figures for new housing in the surrounding area are on target to be easily reached. Given the healthy state of the Council's current five-year housing land supply position, the proposal is not necessary to meet Shropshire Council housing development needs, and its approval would undermine the Council's strategy for the location of housing. Any economic or social benefits would be small in scale and largely private rather than contributing to the community and while the design of the dwelling may provide some small environmental benefits there are greater environmental costs in terms of sustainability, landscape and heritage such that the balance of material considerations would not support approval under CS5 or justify a departure from the development plan. As a consequence, open market residential development of the site is contrary to policies CS1, CS5 and CS17 of the Core Strategy, and policies MD1, MD3, MD7A, MD12 and MD13 of the SAMDev Policy, as well as being in conflict with the Pontesbury Neighbourhood Plan and the overall aims and objectives in relationship to sustainable development as set out in the NPPF.

8.2 The proposed dwelling and associated infrastructure and paraphernalia would be a jarring new domestic built form to the rear of the established building line to the north and would protrude into and unacceptably impact upon the green space which contributes to views into and out of the Conservation Area. The design of the dwelling and the garage conversion of the barn would contrast uncomfortably with existing heritage assets to the north and there would be unacceptable visual and landscape impacts on the surrounding high quality rural landscape, as well as a

view highlighted and protected within the Pontesbury Neighbourhood Plan. There are no significant public benefits which would outweigh this impact. The proposed development would be contrary to policies CS6 and CS17 of the SC Core Strategy and policies MD2, MD12 and MD13 of the SC SAMDev policy which all seek to ensure that development conserves and enhances the natural, built and historic environment and local character.

## 9.0 Risk Assessment and Opportunities Appraisal

### 9.1

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.

### 9.2 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.

## 9.3 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.

## 10.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy:  
CS1 Strategic Approach  
CS5 Countryside and Green Belt  
CS6 Sustainable Design and Development Principles  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
CS18 Sustainable Water Management

SAMDev Policies  
MD1 Scale and Distribution of Development  
MD2 Sustainable Design  
MD3 Managing Housing Development  
MD7A Managing Housing Development in the Countryside  
MD12 Natural Environment  
MD13 Historic Environment

Pontesbury Neighbourhood Plan

RELEVANT PLANNING HISTORY:

20/00602/FUL Conversion of barn to 1No dwelling and installation of package treatment plant  
WDN 29th May 2020

20/03082/FUL Conversion of barn to 1No dwelling and installation of package treatment plant  
(Re-submission) REFUSE 12th January 2021

23/04125/FUL Erection of a detached dwelling and conversion of barn to form garage/garden  
store WDN 21st November 2023

Appeal

21/02961/REF Conversion of barn to 1No dwelling and installation of package treatment plant  
(Re-submission) DISMIS 23rd December 2021

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S742BOTDMNG00>

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

Cabinet Member (Portfolio Holder) - Councillor Chris Schofield

Local Member

Cllr Roger Evans

Appendices  
APPENDIX 1 - Full text of APP.L3245/W/21/3276390

## APPENDIX 1

Full text of APP.L3245/W/21/3276390 as requested by Chair.



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## Appeal Decision

Site visit made on 14 December 2021

by **M Shrigley BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 DECEMBER 2021

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**Appeal Ref: APP/L3245/W/21/3276390**

**Barn, South of Plealey, Near Pontebury, Shrewsbury, Shropshire**

- 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 C W Willner against the decision of Shropshire Council.
  - The application Ref 20/03082/FUL, dated 31 July 2020, was refused by notice dated 12 January 2021.
  - The development proposed is for "conversion of barn building to a single dwelling".
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appellants bundle includes a planning application form marked as "draft". However, the location details specified in formal local consultation and displayed in the Council's Decision Notice differ from those on the application form submitted and are not disputed. The other appeal documentation specifies the location as "Proposed Barn Conversion To The South Of, Plealey, Shrewsbury, Shropshire" rather than "Red House Farm". Therefore, I have used that information in the above banner. The description of the development is otherwise consistent with the other documents.

### Main Issues

3. The main issues in the determination of the appeal are the appropriateness of a new dwelling in the countryside having regard to: i) accessibility to local services and employment; and ii) the effect to the character and appearance of the host building and wider area.

### Reasons

#### *Accessibility*

4. The housing distribution policies central to the dispute include Policy CS1 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 (CS) which sets out the Council's strategic approach to accommodate housing growth relative to towns and other key centres for employment and services across the district, with an overall aim to make settlements more sustainable.
5. It sets a target of delivering 27,500 dwellings over the plan period with 35% of those being within the rural area, provided through a sustainable "rural rebalance" approach. The policy identifies that open market residential

- development in rural areas is to be predominantly located in Community Hubs and Clusters.
6. CS1 is also taken in tandem with CS Policy CS5 which highlights that new development will be strictly controlled to protect the countryside in line with national policy. The Site Allocations and Management of Development (SAMDev) Plan 2015 sets out further details to deliver the vision, objectives, and policies of the CS.
  7. The main parties agree that Plealey is neither a Community Hub nor Cluster settlement. For the purposes of applying the terms of the CS and SAMDev Plan Plealey is in a countryside location where new open market residential development is not supported. Moreover, the location is not highlighted within the evidence as being close to any significant infrastructure, services or employment areas which can be readily accessed.
  8. That is important because rural roads in the immediate vicinity leading to other settlements lack continuous pedestrian footways and adequate lighting. Those factors and the distances to larger towns and higher order settlements with a greater range of services and employment provision are likely to make options to walk and cycle undesirable to potential occupiers of the scheme. This would be harmful as it would encourage car use away from more sustainable housing locations available within the plan area.
  9. Consequently, I find that the location of the scheme within the countryside would conflict with the Council's settlement strategy as set out in Policy CS1 and CS5 of the CS and MD1, MD7a of the adopted SAMDev Plan. Collectively those policies seek to locate new homes where ready access to services and facilities is the greatest. It would conflict with Section 9 of the National Planning Policy Framework (the Framework) which promotes opportunities to maximise sustainable transport solutions available through decision-making. I attribute substantial weight to the harm identified.

#### *Character and appearance*

10. I note that the appeal site is located at the edge of a small enclave of existing dwellings within the open countryside. At my site visit I could see that the Dutch barn building subject to appeal is metal framed and open sided. I also recognise it lies within the Plealey Conservation Area which contains several nearby historic buildings forming an important part of the settlements unique character and attractiveness within a predominantly open rural setting.
11. The original farmstead buildings associated to Red House, a grade II listed building noted for its architectural features, which have been subject to conversion are also attractive brick buildings and noticeable features of the immediate locality close to the barn subject to appeal.
12. Whilst I accept the barn does have a visually distinctive dome shaped roof not shared by other neighbouring local buildings in the vicinity, it does not exhibit any architectural details of particular significance or aesthetic value. Its design appears to be a more recent form of development linked to widespread functional agricultural needs which can be observed in many rural locations.
13. In terms of the extent of the conversion works referred to and disputed by the main parties. Straight forward conversion taken in broad terms can be an inherently sustainable form of development. Such works offer opportunities to



breathe new life into historic buildings or other buildings worthy of retention, as well as improving the local environment. Indeed, those points are reflected in the wording of the policies contained within the Council's development plan when read as a whole.

14. That said, the works proposed would involve substantial building operations which would go well beyond mere conversion. This is because the barns minimal skeletal design as an open sided shelter does not lend itself to a straightforward conversion scheme, even if its original metal framing were to remain intact.
15. Filling in the open spaces within the barns framing would unduly over emphasise the barns bulk and mass relative to other prominent nearby former farmstead brick buildings with clear heritage and aesthetic value. The resultant visual effect would urbanise the barn, and site, which would be unsympathetic to the existing rural surroundings it would be viewed within.
16. Potential enhancements in external building materials and landscaping sought by planning condition would not alleviate my concerns. Overall, the proposed change would appear as incongruous to the area's most positive and distinctive qualities.
17. In visual terms there would be no benefit to the settlements overall setting, or to the setting of historic buildings contained within it having regard to formal designation. This is because the appeal barn building is already seen as part of the rural area close to properties where former agricultural buildings are part of the areas distinctive rural character and history. There would be no significant public benefit or other related visual improvement benefits as a result.
18. Although not mentioned by the main parties, it is relevant to point out that Section 72(1) of the Town and Country Planning Listed Building and Conservation Area Act 1990 (the Act), requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. I am equally cognisant of Section 66(1) of the Act which requires me to have special regard to the desirability of preserving the setting of listed buildings. Those provisions do not alter my assessment of harm.
19. Accordingly, I find that the appeal proposal would be harmful to the character and appearance of the existing building and rural area. It would conflict with Policy CS5 of the CS and SAMDev Plan Policy MD7a which combined: seek to encourage new development to have a positive contribution to local surrounding; and to ensure that it is respectful to its setting.

#### *Other considerations*

20. Paragraph 11(d) of the Framework is not engaged based on the evidence before me. Therefore, the relevant housing distribution policies within the development plan carry full weight in my decision. Moreover, there is no evidence to suggest that the market housing figure specified by the development plan for the rural area has not been met by the main parties.
21. I note the approvals for a barn conversion under 19/00425/FUL and housing under 14/02854/OUT, as well as the allowed appeal decision referred to in Norton In Hales<sup>1</sup> concerning the same housing distribution policies. However, I

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<sup>1</sup> APP/L3245/W/20/3260022

do not have the full background details informing each of those individual cases. Therefore, I give any comparisons little weight. The appeal decision also gives an indication of a greater level of local service provision being available as a key difference.

22. I acknowledge there is public support for the appeal scheme inclusive of the views of the Parish Council. However, alleged shortcomings of other local developments do not provide me a strong basis to accept the scheme. Moreover, I have already addressed the main issues of the case central to the dispute leading to the appeal.

### **Planning Balance and Conclusion**

23. Paragraph 12 of the Framework specifies that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Nonetheless, it also states that local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
24. Paragraph 47 of the Framework also advises that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
25. In terms of the benefits being referred to the proposal would entail the re-use of previously developed land. Although there can, in broad terms, be merit in allowing rural building conversions the scheme before me involves development that is likely to go well beyond mere conversion. I find that there is no convincing overriding public benefit in terms of heritage protection or associated environmental enhancement to an existing building in the context of a rural settlement setting, and there would be visual harm.
26. The appeal scheme would provide an additional market home and employment opportunities to carry out the works but there is no identified housing need or shortfall in this particular location. Nor is it close to any meaningful identified services or employment, nor would it provide niche housing where there is a proven local need. Furthermore, any social or economic betterment would also be commensurate to the scale of the development as a single dwelling.
27. Thus, bringing all relevant points raised together there are no reasons before me of sufficient weight, taken either individually or collectively, which suggest anything other than the development plan should be followed.
28. For the reasons given above the appeal does not succeed.

*M Shrigley*

INSPECTOR

# Agenda Item 8

## SCHEDULE OF APPEALS AS AT COMMITTEE 21<sup>st</sup> May 2024

<b>LPA reference</b>	23/03747/FUL
<b>Appeal against</b>	Conditions
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Christopher Jordan
<b>Proposal</b>	Change of use of 1st floor from storage to licensed restaurant and retention of Air Conditioning Unit
<b>Location</b>	Christophers Restaurant 8 Market Place Shifnal Shropshire TF11 9AZ
<b>Date of appeal</b>	11.03.2024
<b>Appeal method</b>	Written representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	16.04.2024
<b>Costs awarded</b>	
<b>Appeal decision</b>	Withdrawn

<b>LPA reference</b>	21/06006/FUL & 22/03935/LBC
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Oliver Garfoot
<b>Proposal</b>	Erection of single storey extension and remodelling of existing dwelling, associated landscaping affecting a Grade II listed building
<b>Location</b>	Brockton Hall Farm Brockton Shifnal Shropshire TF11 9LZ
<b>Date of appeal</b>	18/07/2023
<b>Appeal method</b>	Written representations
<b>Date site visit</b>	27/02/2024
<b>Date of appeal decision</b>	16/04/2024
<b>Costs awarded</b>	No
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	23/04035/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Euro Quality Lambs
<b>Proposal</b>	Extension of existing water culvert
<b>Location</b>	Euro House Dale Street Craven Arms Shropshire SY7 9PA
<b>Date of appeal</b>	16.04.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	23/04616/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr C Shine
<b>Proposal</b>	Erection of two storey and single storey extensions
<b>Location</b>	Sycamore Cottage Dorrington Shrewsbury Shropshire SY5 7ER
<b>Date of appeal</b>	07.03.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	17.04.2024
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	22/05688/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Graham Gordon
<b>Proposal</b>	Erection of 1No dwelling following demolition of garage and outbuildings/sheds.
<b>Location</b>	Land Rear Of 2 Spring Cottages Hookagate Shrewsbury Shropshire
<b>Date of appeal</b>	23.11.2023
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	22.04.2024
<b>Costs awarded</b>	Refused
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	23/01532/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Maelor Homes (Hinton) Limited
<b>Proposal</b>	Outline application for the erection of 2No. detached dwellings to include access
<b>Location</b>	Land East Of Hinton Lane Pontesbury Shrewsbury Shropshire
<b>Date of appeal</b>	10.10.2023
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	24.04.2024
<b>Costs awarded</b>	
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	23/02181/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Simon Alderson
<b>Proposal</b>	Construction of retaining wall to rear of garden bordering High House Lane, Albrighton
<b>Location</b>	Windy Ridge Beamish Lane Albrighton Wolverhampton Shropshire WV7 3JJ
<b>Date of appeal</b>	18.12.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	25.04.2024
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	23/04211/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Gary Smith
<b>Proposal</b>	Upgrade existing licensed caravan site from 5 to 10 pitches for caravans/motor homes together with construction of reception, toilet/shower block associated works
<b>Location</b>	Royal Oak Alveley Bridgnorth Shropshire WV15 6LL
<b>Date of appeal</b>	03.05.2024
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	23/00525/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Company Secretary Eagle Mews Ltd
<b>Proposal</b>	Outline application for 4 self-build houses on vacant land adjacent to the former Eagles Inn (all matters reserved). Resubmission of 22/00283/OUT.
<b>Location</b>	The Eagles Inn 1 Harley Road Cressage Shrewsbury Shropshire SY5 6DF
<b>Date of appeal</b>	26.04.2024
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	23/01556/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr S Broadley
<b>Proposal</b>	Change of use of land to mixed use for stabling of horses and as a residential caravan site for two gypsy families, each with two caravans including no more than one static caravan/mobile home, laying of hardstanding and erection of two amenity buildings
<b>Location</b>	Land East Of Knowle Bank Farm Priorslee Road Shifnal Shropshire
<b>Date of appeal</b>	15.01.2024
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	09.04.2024
<b>Date of appeal decision</b>	10.05.2024
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

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## Appeal Decisions

Site visit made on 27 February 2024

by **A Tucker BA (Hons) IHBC**

an Inspector appointed by the Secretary of State

**Decision date: 16 April 2024**

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### **Appeal A Ref: APP/L3245/W/23/3316545**

#### **Brockton Hall Farm, Brockton, Shifnal, TF11 9LZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Oliver Garfoot against the decision of Shropshire Council.
  - The application Ref is 21/06006/FUL.
  - The development proposed is extension and remodelling of an existing Georgian farmhouse and associated landscaping.
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### **Appeal B Ref: APP/L3245/Y/23/3316546**

#### **Brockton Hall Farm, Brockton, Shifnal, TF11 9LZ**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
  - The appeal is made by Mr Oliver Garfoot against the decision of Shropshire Council.
  - The application Ref is 22/03935/LBC.
  - The works proposed are extension and internal remodel of a traditional Georgian farmhouse red brick dwelling and associated landscaping at Brockton Hall Farm, Brockton, Shifnal, Shropshire. The design looks to demolish an unattractive and poorly constructed existing single-storey extension and construct a replacement extension. The proposed extension will be subservient and sympathetic to the existing dwelling with a flat roof design and brick facing facade.
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#### **Decision – Appeal A**

1. The appeal is dismissed.

#### **Decision – Appeal B**

2. The appeal is dismissed.

#### **Preliminary Matter**

3. The appeals relate to the same scheme under different legislation. I have dealt with both appeals together in my reasoning.

#### **Main Issue**

4. The main issue for both appeals is the effect of the proposal upon the significance of the grade II listed building known as Brockton Hall Farm<sup>1</sup>.

#### **Reasons**

5. Section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker to have special regard to

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<sup>1</sup> List Entry Number: 1480563

the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

6. The appeal building is a substantial farmhouse that dates from the early 19<sup>th</sup> century. It has a broadly L-shaped plan, with a principal well-composed formal range facing south and a secondary wing at the east side that extends to the north. The front range has a polite appearance as a result of its symmetrical fenestration that is enhanced by a projecting central bay which is topped by a simple pediment. In contrast, the rear range has a more modest and functional appearance. Although it has seen some harmful interventions, including the recent loss of the secondary stair<sup>2</sup>, it retains a legible historic floorplan.
7. A small single storey outbuilding stands at the rear to the side of the existing porch. Although much altered and extended, it retains fabric that is reported to date from the mid-19<sup>th</sup> century. This indicates that the building was previously narrower and carried a service function as evidenced by its retained bread oven at its western end. Whilst it is of very limited architectural value, its presence and remaining historic fabric further illustrates the way the building functioned in the past and how it evolved; it therefore has a degree of evidential significance.
8. The functional north range and corresponding later entrance porch at the rear faces towards the associated working buildings. Brick walls separate the external spaces from front to rear<sup>3</sup>, and internally the floor plan illustrates a clear divide between the front and rear of the house; with the polite living rooms and bedrooms at the front and working rooms and secondary bedrooms at the rear. Thus, a hierarchy of spaces and external areas are illustrated, which is demonstrative of how the house would have been used with working spaces at the rear and formal rooms at the front.
9. The building's surviving historic fabric, its traditional form, its association with the working buildings to the north and the way it functioned, and the clear social hierarchy and separation of front and rear spaces are characteristics that contribute to its special interest.
10. The proposal would see the outbuilding removed and replaced by a substantial ground floor extension. A modest level of harm would arise from the loss of the outbuilding as it would lessen our understanding of how the building functioned in the past, and would result in the loss of historic fabric.
11. The extension would be of a substantial size. Based on a purely numeric comparison, it is suggested that it would represent an appropriately sized addition. However, its design, scale and detailing would be wholly inappropriate for several reasons. The large central hallway and opening up of walls to connect the hallway and extension to surrounding rooms would provide a more modern living environment; however, in doing so the current hierarchy between the front and back of the house would be wholly undermined, harming the plan form of the building and incurring the loss of historic fabric.
12. The proposal formalises the loss of the external brick wall that separated the farmyard from the front garden. This would be an adverse spatial change. It

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<sup>2</sup> Although this is shown on the existing floor plans, the list description confirms that it was removed in 2021 and before the date that the building was listed.

<sup>3</sup> Although at the time of my visit the external wall to the west had been demolished, it is still shown on the existing plans.

would be further emphasised by the extent of south facing glazing within the extension. This would face towards the front garden in a prominent manner from a rearward area that was not previously associated with the south front. Additionally, the glazing proportions of the extension's south elevation would appear ill considered when viewed with the near square proportions of existing south-facing glazing.

13. To the rear the extension would have an expansive and over-scaled solid elevation. The broad flat roofed form would be entirely at odds with the forms of the host building, with its pitched roofs and traditional gable widths. It would have an assertive appearance that would detract from the modest and functional character of the rear of the building.
14. The reasons for proposing a formal cornice are unclear. The host building has a much simpler range of details. The appearance of the cornice, particularly at the rear alongside the working aspects of the building and facing over an historic farmyard space, would be entirely out of place and would represent a further blurring of the distinction between the front and rear of the house.
15. Taken together, the impacts arising from the proposal would cause a considerable level of harm. In terms of the National Planning Policy Framework (Framework) the harms would be less than substantial but would nevertheless be of considerable importance and weight. Paragraph 208 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
16. It is suggested that the proposal would achieve a more suitable layout for modern family living. The existing layout, particularly at ground floor is complex, and the rooms do not relate well to each other. However, there is nothing before me to suggest that changes to the degree proposed are necessary to ensure that the building can continue to function as a dwelling, and I therefore find that this benefit would be of a private nature.
17. It would be necessary for the extension to conform to modern standards in terms of insulation. However, there is nothing before me to suggest that the thermal performance of the building would be considered holistically or that the works would incorporate other improvements to the building that would go beyond those that are required by other legislation. Therefore, I give this matter little weight.
18. Economic benefits would arise during the construction process. However, these should only attract modest weight owing to the small scale of the proposal.
19. The public benefits would carry modest weight and are not sufficient to outweigh the harm identified.
20. In summary the proposal would fail to meet the requirements of the LBCA as it would harm the special interest of the listed building. It would be contrary to Policies CS6 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy 2011, and Policies MD2 and MD13 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan 2015. Together these policies seek to ensure that proposals protect the historic environment.

### **Other Matters**

21. The second reason for refusal for both applications related to insufficient information to justify the replacement of windows. Additional information has been submitted with the appeal, which demonstrates that the condition of the windows has been considered in more detail and some are capable of repair. The Council is content that such matters could be covered by a condition if the appeals were allowed. I see no reason to take a contrary view. As I am dismissing the appeal for the reasons given, this matter does not need to be considered further.

### **Conclusion**

22. For the reasons given above, the appeals should be dismissed.

*A Tucker*

INSPECTOR



# Appeal Decision

Site visit made on 9 April 2024

**by John Whalley**

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

**Decision date: 17<sup>th</sup> April 2024**

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**Appeal ref: APP/L3245/D/23/3339291**

**Sycamore Cottage, Long Gardens, Dorrington, Shrewsbury SY5 7ER**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal of planning permission.
  - The appeal is made by Mr C Shine against the decision of Shropshire Council.
  - The application, ref. 23/04616/FUL, dated 23 October 2023, was refused by a notice dated 18 December 2023.
  - The development is: Erection of two storey and single storey extensions.
- 

## Decision

1. The appeal is dismissed.

## Main issue

2. The decision turns on the likely effect of extension works on the size, mass, character and appearance of the original dwelling, its effect on the immediate landscape and on the supply of smaller and less expensive properties in the local area.

## Appeal dwelling and proposed works

3. The appeal dwelling, Sycamore Cottage, Long Gardens stands within a site of about 0.4ha closely bounded by the Welsh Marches railway to the east and the A49 trunk road to the west about 1km north of the village of Dorrington.
4. The appeal concerns the Appellant, Mr Shine's project to substantially extend his home, by adding two and single storey extensions, effectively doubling the size of the existing dwelling.

## Considerations

5. Mr Shine wishes to considerably enlarge Sycamore Cottage. He said the scheme had been tastefully designed to have a positive impact on visual amenity. The result would have no undue impact upon the character of the surrounding rural landscape.
6. The Council said the proposed works at Sycamore Cottage would add 125m<sup>2</sup> of floorspace to the existing dwelling. That would be an increase of total floorspace by more than 100%, (excluding the conservatory), to a total of about 245m<sup>2</sup>.
7. Mr Shine was right to say that the enlarged dwelling at Sycamore Cottage would be compatible with the scale and character of existing development in

the area but only to the extent of comparing the resulting dwelling with an existing large detached houses in the locality rather than it retaining the character of the original dwelling.

8. As the Council pointed out, the Shropshire Local Development Framework Type and Affordability of Housing Supplementary Planning at paras 2.20 and 2.21 says the size of dwellings in the countryside can be of concern, as the market trend is towards providing larger and more expensive dwellings and this tends to exclude the less well-off, including those who need to live and work in rural areas. The guidance goes on to say that whilst the problem can be partly addressed through providing affordable rural dwellings, it is also important to maintain and provide an appropriate stock of smaller, lower cost, market dwellings. Further, the Council is concerned to control both the size of any replacement dwellings in the countryside and the size of extensions to houses in the countryside, as they could otherwise create larger and larger dwellings. The enlargement works proposed by Mr Shine would more than double the existing dwelling transforming it into a different property, well beyond what might be regarded as an affordable home. In my view, that intended change amounts to a considerable objection to permitting the appeal scheme.
9. Whilst the extensive civil engineering and landscaping works under way over most of the land attached to Sycamore Cottage I saw during my site visit are not part of the house extension project before me, they may be indicative of the scale of the inapt transformative works to the dwelling that Mr Shine proposes.
10. I agree with the Council that the appeal proposal is not sympathetic to the size, mass, character and appearance of this part of the rural landscape, and would reduce the supply of smaller and less expensive properties.

### **Conclusion**

11. I conclude that the appeal should fail.

*John Whalley*

INSPECTOR



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# Appeal Decision

Site visit made on 2 April 2024

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

an Inspector appointed by the Secretary of State

Decision date: 22 April 2024

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**Appeal Ref: APP/L3245/W/23/3328198**

**Land rear of 2 Spring Cottages, Hook-a-Gate, Shrewsbury, Shropshire**

- 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 Graham Gordon against the decision of Shropshire Council.
  - The application Ref 22/05688/FUL, dated 19 December 2022, was refused by notice dated 6 March 2023.
  - The development proposed is the erection of 1No. dwelling following demolition of garage and outbuildings/sheds.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of 1No. dwelling following demolition of garage and outbuildings/sheds on land rear of 2 Spring Cottages, Hook-a-Gate, Shrewsbury, Shropshire in accordance with the terms of application Ref 22/05688/FUL, dated 19 December 2022, subject to the attached schedule of conditions.

## Application for costs

2. An application for costs was made by Mr Graham Gordon against Shropshire Council. This application is the subject of a separate Decision.

## Procedural matter

3. Prior to my determination of this appeal, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 which replaced the previous version. I have taken into account the relevant provisions of the revised version in the determination of the appeal and any references to the Framework in this decision relate to the revised document. In having regard to the matters that are most relevant to this appeal, there are no material changes to the Framework of relevance to the substance of this appeal. Therefore, I am satisfied that no party to this appeal would be prejudiced by the changes to the national policy context.

## Main Issues

4. The main issues are:
  - The effect of the proposed development on the character and appearance of the surrounding area.
  - The effect of the proposed development on highway safety and the free flow of traffic.

## Reasons

### *Character and appearance*

5. The appeal site comprises a relatively unkempt parcel of land located to the rear of several residential properties on Longden Road and is occupied by a garage and a number of dilapidated smaller outbuildings. Access to the site is via a relatively narrow private lane located off Longden Road and is facilitated by a 'T' junction positioned between residential properties comprising 'The Lilacs' and 'Ashdene'. The lane also provides access to a residential property ('The Prill') located to the north-west of the appeal site and also forms part of the route of a public footpath.
6. The immediate surrounding area comprises a variety of single and two storey dwellings. These have varying design styles, construction ages and plot sizes. As such, the surrounding area does not display any cohesive or dominant design character.
7. The proposed development would involve the construction of a detached two-storey dwelling with an additional floor of accommodation in the roof space. Due to the sloping nature of the site, the dwelling would be of split-level design with the rear elevation appearing as single storey. The majority of the land to the front of the proposed dwelling would comprise of a parking/manoeuvring area providing parking for two vehicles. The Council identifies that the principle of residential development on this windfall site is acceptable.
8. In being located between residential development comprising 'The Prill', 'Ashdene' and 'The Lilacs', the proposed dwelling would be read as part of the existing settlement. Owing to the local topography and existing development, it would largely be screened in views from Longden Road. Whilst it would be visible in views from the countryside in the vicinity of Rea Brook, it would be seen in the context of existing development. Consequently, I consider that the principle of residential development on the appeal site would be acceptable.
9. Given the varied nature of construction styles in the locality, the proposed design of the dwelling would not be inappropriate within the context of its setting, nor would it appear as an incongruous form of development. Although accommodation in the roof space is proposed, taking into account the local topography which generally slopes to the north-west, the overall ridge height of the dwelling would likely be set below some of the first-floor windows on two storey properties fronting Longden Road. Furthermore, given the varied nature of the scale, mass and height of the properties in the settlement, I do not consider that the height of the proposed dwelling would appear unacceptably excessive or out of context with its surroundings.
10. The overall footprint and plot size is generally comparable with nearby existing development, particularly the detached properties located immediately to the south-east of the appeal site. In my view, the appeal site is of sufficient size to accommodate the footprint of the proposed dwelling without causing the proposal to appear cramped or materially out of character with the density of nearby development.
11. Taking the above factors into account, I do not consider that the proposal would result in a cramped form of development and would not cause any material harm to the character and appearance of the surrounding area.



Consequently, there would be no conflict with Policy CS6 of the Shropshire Council Core Strategy (Core Strategy) and Policy MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

*Highway safety*

12. The application provides for on-site parking, manoeuvring and the provision of visibility arrangements between the site and the junction with the private lane. However, no modifications are proposed to the access arrangements between the lane and Longden Road.
13. There is some dispute between the main parties regarding the use of the appeal site for the parking of vehicles. The Appellant contends that the site is used for the parking of two to three works vans in connection with his business and was previously used as the garage and parking area for the occupants of No. 2 Spring Gardens until the site was split from that property in 2018. As such, it is contended that the Appellant and family have use the lane for vehicular access for at least 65 years and will continue to do so whilst the site remains in the Appellant's ownership, including for the parking of works vans, until such time as the site is redeveloped.
14. The Council considers that the parking use has never been formalised through the submission of a planning application or a certificate of lawfulness. As such, the Council contend that the site does not have a formal parking use and that a new dwelling would intensify the use of the access onto Longden Road which should be configured to meet current highway standards.
15. The Council's Highways Officer raised no objections to the proposed development and commented that the submission has satisfactorily addressed the proposed on-site parking, turning provision and visibility along the lane. The Officer further identified that, although the junction with the lane and Longden Road is not ideal in terms of layout and restricted visibility, the proposed residential development is unlikely to materially increase vehicular activity over that which can reasonably be expected from the full utilisation of the garage.
16. The Council assert that the comments of the Highways Officer was on the understanding that the site already had a parking use and therefore a new dwelling would have no material change in trip generation utilising the site. However, as the parking use is disputed, it is contended that insufficient information has been provided to demonstrate a safe means of access off Longden Road.
17. Although no vehicles were parked on the appeal site at the time of my site visit, given the age of the existing garage and the evidence of the Appellant, it seems apparent that the site has been previously used for parking for some time. Furthermore, I have no evidence to suggest that the site may not now be used for the parking of vans or that the Council has taken any action to secure the cessation of such use. There is no other compelling evidence to suggest that the parking use has been formally abandoned. On the basis of the evidence before me, it seems reasonable to conclude that the appeal site has historically been used for parking and continues to be used as such.
18. In these circumstances, I have attached substantial weight to the views of the Council's Highways Officer and the evidence provided in the Appellant's Access

Statement. The Appellant's view that the proposed development would likely generate around three vehicle movements in and out of the site per day is reasonable. The level of traffic that currently uses the appeal site associated with the current van parking is broadly the same as that which would likely be generated by the proposed development. As such, the impact of the proposed development on traffic movements along the lane would likely be neutral.

19. I have taken into account the fact that there have been no recorded injury accidents at the junction, or indeed within Hook-a-Gate, in the previous five years. I also have no evidence to suggest that there have been any non-injury accidents at the junction. The existing level of traffic using the appeal site would be similar to that associated with the proposed development. I have also taken into account the concerns of nearby residents that the junction should be reconfigured to meet appropriate visibility standards. However, taking the above factors into account, I consider that it would be unreasonable in this case to require any works to reconfigure the junction of the lane with Longden Road.
20. I accept that visibility to the south-west of the junction is partially compromised by the boundary wall and planting at 'The Lilacs'. I have taken into account the 30mph speed limit of Longden Road, the fact that the junction bell mouth is relatively wide and the fact that there would be no material change in the likely number of vehicular movements. The width of the bell mouth would enable some degree of manoeuvring to occur to enable some vehicles to pass one another thereby minimising the risk of vehicles having to wait on Longden Road to turn into the site in circumstances where another vehicle was emerging. These factors collectively contribute to my view that the proposed development would not result in any severe highway safety or traffic implications, nor would it have any material effect on the safety of pedestrians using the public footpath.
21. For the above reasons, I consider that the proposed development would not be materially detrimental to highway safety or the free flow of traffic on Longden Road. Consequently, there would be no conflict with Policies CS6, CS7 and CS8 of the Core Strategy and Policy MD2 of the SAMDev Plan.

#### *Other matters*

22. The proposed development would make a modest contribution to housing supply in the County to which I have attached moderate weight. I have also taken into account the concerns of nearby residents regarding the effect of construction traffic on the use of the lane. The impact of construction works on the lane and any environmental and amenity impacts arising from such works can be made the subject of an appropriately worded planning condition.
23. In addition, I have taken into account the concerns raised by Longden Parish Council and a number of local residents regarding, amongst other things, flood risk, loss of privacy, infrastructure capacity and the impact on nature conservation. Although these matters have been carefully considered, they do not alter the main issues which have been identified as the basis for the determination of this appeal, particularly in circumstances where the Council's reasons for the refusal of planning permission does not identify any objection to the appeal scheme for these other reasons.

24. The Appellant has drawn my attention to a previous planning application, submitted in 2021, for the construction of a single dwelling (Ref: 21/04948/FUL) on the appeal site. Although I do not have full details of the previously refused planning application, the Appellant's Statement includes site plans showing layout comparisons of the appeal proposals and the previous scheme. It is clear that the overall footprint of the proposed dwelling has been slightly reduced from that proposed previously.
25. Whilst I have no evidence of the elevational design of the previous scheme, the Appellant indicates that the appeal proposal will no longer provide for a garage. The frontage of the proposed dwelling now also provides for a significant area of parking and manoeuvring space. As such, there are clear material differences between the previous scheme and the appeal proposal, particularly in relation to its appearance from the access lane and in relation to the extent of parking/manoeuvring areas. As such, I have attached little weight to the design of the previous scheme and I have determined this appeal on its own individual merits.

### **Conditions**

26. I have considered the proposed planning conditions, including a number of pre-commencement conditions, that have been provided by the Council. I have considered these against the advice given in paragraph 56 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the PPG. Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability. I have also deleted two of the suggested conditions for the reasons given below.
27. In addition to the standard time limit, I have imposed a condition (No. 2) relating to the approved plans in the interests of certainty.
28. In order to ensure the satisfactory drainage of the site and to avoid the development contributing to flood risk, a condition requiring the submission and implementation of details of surface water drainage is necessary (No. 3). The submission of a mine gas assessment is also necessary to ensure that risks from potential mine gases to the future occupiers of the development are minimised, and to ensure that the development can be carried out safely (No. 4).
29. A condition is necessary requiring the submission of a construction environmental management plan in order to minimise the effect of the proposed development on nature conservation interests (No. 5). Conditions are also necessary to provide roosting and nesting opportunities for birds and bats and to minimise the disturbance to bats as a consequence of external lighting (Nos. 6 and 7).
30. The Council has suggested the imposition of two planning conditions that relate to highway matters. These provide for the submission of a plan showing full visibility splays for the access onto Longden Road and the submission of an access scheme to demonstrate how vehicles can access the site without waiting on the highway adjacent to the access (suggested conditions Nos. 8 and 9). These conditions were not recommended in the consultation response from the Highways Officer on behalf of the Council in its role as Highway Authority. Given my findings above, the planning circumstances in this case suggest that it would be unreasonable to require works to reconfigure the junction of the

private lane with Longden Road. Consequently, I have deleted the suggested conditions.

31. The submission and approval of a Construction Management Plan is necessary to safeguard the living conditions of local residents and in the interests of highway safety (No. 8). However, I have amended the suggested condition to include additional measures to safeguard living conditions and minimise the risk to highway safety during construction works.
32. In order to ensure that vehicles can satisfactorily access the site from the lane and ensure adequate provision of parking facilities, in the interests of highway safety, a condition is necessary requiring the implementation of the submitted details provided on 'Proposed Access Plan Drawing No. 010' (No. 9). A condition is also necessary requiring the submission of an updated Arboricultural Impact Assessment in order to minimise the effect of the development on existing trees and make suitable provision for compensatory measures (No. 10).
33. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national Permitted Development rights unless there is clear justification to do so. However, I have considered the relationship of the appeal site to adjacent development and the countryside to the northwest. Extensions or buildings in the curtilage of the dwelling could have an impact on the character and the appearance of the surrounding area. As such, a condition is considered to be reasonable to restrict development within the curtilage of the proposed dwellinghouse (No.11).

### **Conclusion**

34. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

*Stephen Normington*

INSPECTOR

### **CONDITIONS SCHEDULE**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out strictly in accordance with the approved drawings and documents and the following approved plans:
  - 0002/001 Location Plan
  - 0002/002 C Existing and Proposed Block Plans
  - 0002/003 E Existing and Proposed Site Plan
  - 0002/004 B Block Plan Levels
  - 0002/030 C Proposed Basement and GF Plans
  - 0002/031 D Proposed Loft and Roof Plan
  - 0002/040 C Proposed Elevations
  - 0002/050 C Proposed Section AA
  - Drawing 010 Proposed Access

#### **Drainage**

- 3) Prior to the commencement of development, a scheme of surface water drainage shall be submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the dwelling is first occupied.

#### **Mine Gas Risk Assessment**

- 4) a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a mine gas risk assessment has been undertaken to assess the potential for mine gases to exist on the site. The mine gas risk assessment shall be undertaken by a competent person as defined in the National Planning Policy Framework and conducted in accordance with CL:AIRE - Good Practice for Risk Assessment for Coal Mine Gas Emissions; October 2021 and having regard to current Environment Agency guidance Land Contamination: Risk Management (LCRM; 2020). The Report is to be submitted to and approved in writing by the Local Planning Authority before development commences.
  - b) In the event of the mine gas risk assessment finding the site to be affected by mine gases a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must have regard to current guidance and standards and ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
  - c) The works detailed as being necessary to make safe the mine gases shall be carried out in accordance with the approved Remediation Strategy.
  - d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of the Environment Agency guidance Land Contamination: Risk Management (LCRM; 2020), which is subject to the approval in writing by the Local Planning Authority.

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

**Construction Environmental Management Plan**

5) Prior to the commencement of development (including demolition, ground works and vegetation clearance), a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) An appropriately scaled plan showing Wildlife/Habitat Protection Zones where construction activities are restricted, where protective measures will be installed or implemented;
- b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c) Requirements and proposals for any site lighting required during the construction phase;
- d) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- e) The times during construction when an ecological clerk of works needs to be present on site to oversee works;
- f) Identification of Persons responsible for:
  - i) Compliance with legal consents relating to nature conservation;
  - ii) Compliance with planning conditions relating to nature conservation;
  - iii) Installation of physical protection measures during construction;
  - iv) Implementation of sensitive working practices during construction;
  - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
  - vi) Provision of training and information about the importance of Wildlife Protection Zones to all construction personnel on site.
- g) Pollution prevention measures.

All construction activities shall be implemented strictly in accordance with the approved plan.

**Bat And Bird Boxes**

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

- A minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 3 swift bricks.
- A minimum of 2 hedgehog boxes.

Swift bricks should be positioned: 1) Out of direct sunlight; 2) At the highest possible position in the buildings wall; 3) In clusters of at least three; 4) 50 to 100cm apart; 5) Not directly above windows; 6) With a clear flightpath to the entrance; and 7) North or east/west aspects preferred. (See <https://www.swift-conservation.org/Leaflet%204%20%20Swift%20Nest%20Bricks%20-%20installation%20&%20suppliers-small.pdf>).

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

### **Lighting Plan**

- 7) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. The submitted plan shall be designed to take into account the advice on lighting set out in the Bat Conservation Trusts Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

### **Construction Management Plan**

- 8) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The Plan shall provide for:
  - i) The submission of a Traffic Management Scheme for the management of construction traffic to ensure that any obstruction to the private lane and access with Longden Road is minimised;
  - ii) the parking of vehicles of site operatives and visitors;
  - iii) loading and unloading of plant and materials;
  - iv) storage of plant and materials used in constructing the development;
  - v) the erection and maintenance of security hoarding, where appropriate;
  - vi) measures to ensure the prevention/removal of mud and other deleterious material arising from construction works on the site from being deposited on the private lane and the public highway;
  - vii) measures to control the emission of dust and dirt during construction;
  - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - ix) delivery, demolition and construction working hours;
  - x) a community communication protocol.

The approved Construction Management Plan shall be adhered to in full throughout the construction period for the development.

**Access, Parking, Turning**

- 9) Prior to the first occupation of the dwelling hereby permitted, the access, parking and turning areas as detailed within the Access Statement, Proposed Access Plan Drawing No. 010, shall be provided in full and shall thereafter be retained for use only as parking and turning areas.

**Arboricultural**

- 10) Prior to the commencement of development, an updated Arboricultural Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The Assessment shall assess the level and impact of tree loss and propose mitigation for any loss. The development shall thereafter be undertaken in accordance with the approved Assessment.

**Removal of permitted development rights**

- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2 Part 1 Classes A, AA, B, C, E and G shall be erected, constructed or carried out without consent from the Local Planning Authority.





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## Costs Decision

Site visit made on 2 April 2024

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

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

**Decision date: 22 April 2024**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/23/3328198 Land rear of 2 Spring Cottages, Hook-a-Gate, Shrewsbury, Shropshire**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Graham Gordon for a partial award of costs against Shropshire Council.
  - The appeal was against the decision of the Council to refuse planning permission for the erection of 1No. dwelling following demolition of garage and outbuildings/sheds.
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### **Decision**

1. The application for an award of partial costs is refused.

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that all parties are expected to behave reasonably to support an efficient and timely process. Where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs irrespective of the outcome of the appeal.
3. The appeal site was subject to a previous planning application, submitted in 2021, for the construction of a single dwelling (Ref: 21/04948/FUL). The Appellant identifies that this previous application was refused for one reason only that related to insufficient information being submitted on highways and access issues. The Council did not identify any reason for the refusal of planning permission of the previous scheme that related to the proposal being out of character with the appearance of the surrounding area.
4. The basis of the Appellant's application for costs relates to two matters. Firstly, in the consideration of the appeal application, the Council introduced an additional reason for the refusal of planning permission that identified that the proposal would result in a cramped form of backland development that would appear at odds and out of character with the appearance of the surrounding area. The Appellant considers that the introduction of this additional reason for the refusal of planning permission was unreasonable particularly as the appeal proposal has some similarities with the scheme previously considered by the Council.
5. Secondly, the Appellant contends that the previous reason for refusal that related to highway grounds has been dealt with in the appeal submission, particularly as the Council's Highways Officer identified that there were no valid reasons to refuse the application on highway grounds. As such, the Appellant

considers that the Council acted unreasonably in identifying that insufficient information had been submitted to confirm that the access meets current highway standards, particularly in circumstances where the Highways Officer was content with the submitted information.

6. Although I do not have full details of the previously refused planning application, the Appellant's Statement includes site plans showing layout comparisons of the appeal proposal and the previous scheme. It is clear that the overall footprint of the proposed dwelling has been slightly reduced from that proposed previously. Whilst I have no evidence of the elevational design of the previous scheme, the Appellant indicates that the appeal proposal would no longer provide for a garage. The frontage of the proposed dwelling now also provides for a significant area of parking and manoeuvring space. As such, there are clear material differences between the previous scheme and the appeal proposal, particularly in relation to its appearance from the access lane and in relation to the extent of parking/manoeuvring areas.
7. The above changes between the two schemes are material and of such significance to suggest that it was entirely reasonable for the Council to consider the appeal proposal afresh against the relevant policies in the development plan. The extent to which the proposed development impacts on the character and appearance of an area is a matter of subjective judgement guided by policies contained within the development plan.
8. In my view, the Council properly considered the proposed development against the relevant policies contained within the Shropshire Council Core Strategy and the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan. It is a matter for the decision maker to consider the effect of new development on the character and appearance of an area and the weight to be attached to this in that decision. Just because I found differently to the Council on this matter does not mean to say that it was wrong in its approach or subjective judgement regarding the consideration of the impact on character and appearance.
9. I have found that the Council had reasonable concerns about the harm to the character and appearance of the surrounding area which justified its decision. Therefore, in my view, the appeal could not have been avoided.
10. Turning now to the second ground for an award of partial costs, it is clear that the Council considered the Access Statement prepared by SLR Consulting Limited (December 2022) in the determination of the application. In this regard, there is a clear difference of opinion between the Council's Planning Officer and Highways Officer regarding the planning status of existing parking on the appeal site and the extent to which the proposed development would intensify the use of the existing access onto Longden Road.
11. The Highways Officer based the consultation response on the basis that the appeal site had an authorised parking use. The Planning Officer was clearly of the view that no evidence had been provided either in the planning application or this appeal to demonstrate that the parking use was authorised.
12. In the determination of the planning application, the Highways Officer is a technical consultee but is not the decision maker. In the absence of any substantive evidence to the contrary, the Planning Officer was entitled to take a view that the appeal site did not have an authorised parking use. As such,

- there was a reasonable basis to assume that the proposed development could intensify the use of the access.
13. The appeal proposals did not provide for any amendments to the junction of the private lane with Longden Road and demonstration that appropriate forward visibility could be achieved and that there was sufficient space to enable two vehicles to pass on the lane in the vicinity of the access junction with the highway. In that regard, the Council was consistent in its view of the suitability of the junction to serve development on the appeal site between the previous scheme and the appeal proposal.
  14. The Council's Planning Officer was entitled to come to a planning judgement regarding the extent to which the appeal site had been used for parking based on the evidence provided in the planning application and the appeal. In my view, the Planning Officer was entitled to come to a reasoned conclusion that the appeal site did not have an authorised parking use and that the proposal would therefore intensify the use of the access.
  15. Again, just because I found differently to the Council on this matter does not mean to say that it was wrong in its approach or judgement regarding the consideration of the impact on highway safety. I have found that the Council had reasonable concerns about the harm to highway safety which justified its decision.
  16. In these circumstances, I have no compelling evidence to suggest that the Council's approach was unreasonable in the consideration of the planning application. The principle of the redevelopment of the site was accepted by the Council but there were clear material considerations that justified its position in determining that planning permission should be refused.
  17. Accordingly, I do not find that the Council failed to properly evaluate the application or failed to properly consider the merits of the scheme. The reasons for the refusal of planning permission were adequately stated by reference to the appropriate policies contained in the development plan that the proposal was in conflict with.
  18. I have found that the Council had reasonable concerns about the harm to the character and appearance of the area and highway safety which justified its decision. As such, I do not find that the Council acted unreasonably in considering the appeal scheme and coming to a reasoned conclusion that planning permission should be refused. Therefore, the appeal could not have been avoided.
  19. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and having regard to all other matters raised, an award of costs is not justified.

*Stephen Normington*

INSPECTOR

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# Appeal Decision

Site visit made on 5 March 2024

**by Samuel Watson BA (Hons) MSc MRTPI**

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

**Decision date: 24<sup>th</sup> April 2024**

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**Appeal Ref: APP/L3245/W/23/3324882**

**Land off Hinton Lane, Pontesbury, Shrewsbury SY5 0PU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Maelor Homes (Hinton) Limited against the decision of Shropshire Council.
  - The application Ref is 23/01532/OUT.
  - The development proposed is an outline application for the erection of 2 no. detached dwellings.
- 

## Decision

1. The appeal is allowed and planning permission is granted for Outline application for the erection of 2 no. detached dwellings. at Land off Hinton Lane, Shrewsbury, SY5 0PU in accordance with the terms of the application, Ref 23/01532/OUT, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The proposal before me has been made in outline with only the matter of access being considered at this stage. All other matters, namely appearance, landscaping, layout and scale, have been reserved for a subsequent application. I understand from the appellant's case that the submitted drawings, in these respects are for illustrative purposes only, I have considered them as such.

## Main Issue

3. The main issue is whether the appeal site is a suitable location for new residential development.

## Reasons

4. Pontesbury is defined as a Key Centre by the development plan where residential development, including windfall sites, is supported within the settlement boundaries. Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy (March 2011, the ACS) sets out a list of development, including some forms of residential development, that is supported outside of settlement boundaries. This list is not exhaustive and so I find that other development, including new dwellings, can also be supported. Policy S12 of the Shropshire Council Site Allocations and Management of Development Plan (December 2015, the SAMD) sets out that windfall and infill sites can also be supported. Overall, the plan makes reference to sustainability, vitality and character as being important considerations for development. In particular, ACS Policy CS5 requires developments to maintain and enhance the

- countryside vitality and character and to improve the sustainability of the rural community.
5. The appeal site comprises a paddock between an existing equestrian stable and a pair of dwellings at the edge of Pontesbury. The proposed site access would be from the shared access serving the two existing dwellings and leads to Hinton Lane. Beyond the stable block the area is characterised by open fields whilst to the opposite side of Hinton Lane, and to the rear of the existing dwellings, the area is built-up and primarily residential.
  6. I recognise, from the submissions before me that the appeal site is outside of the defined settlement boundary for Pontesbury. However, while settlement boundaries are a starting point, I must make a judgement, as to whether the appeal site is within the settlement, against the situation on the ground.
  7. In this instance, as noted above, the site is at the edge of the built-up area of Pontesbury and is surrounded by a degree of development. However, the site is a paddock, and the stable block is small and associated with the wider rural area. Traveling away from Pontesbury along Hinton Lane the sense of being within the settlement quickly stops and development is only seen behind the mature vegetation to either side of Hinton Lane. The two existing properties near the appeal site, by way of their location set back from the road and the intervening greenery, do not contribute to the extension of the settlement into the appeal site.
  8. Although the site is visually outside of, and somewhat detached from, the settlement it is physically very close. It is a very short distance from the end of the shared driveway to where Pontesbury visually begins and from there a supermarket, medical centre and other services can easily be accessed by foot or bike. I note that there are a number of properties within the new development on the opposite side of Hinton Lane that share a similar distance from the services and facilities of Pontesbury. I do not find future occupiers would be reliant on private motor vehicles to meet their daily needs.
  9. In all I find that the site is outside of, but immediately adjoining, the edge of Pontesbury for the purposes of this appeal and my assessment against the Council's spatial strategy. Moreover, given its loose relationship to the surrounding residential development I do not find that the site could be considered as infill.
  10. I note that Pontesbury is currently 150 houses over the guideline set out in the development plan and shared with Minsterley of 260 new houses. I am mindful that this could lead to adverse impacts on the services and facilities provided within the settlement. However, no evidence has been supplied to demonstrate that the services and facilities in Pontesbury are not coping with the current population levels or could not accommodate an increase. This guideline number is also not a cap. Moreover, I am mindful that the proposal would only result in a modest increase in dwellings compared to the guideline and the existing over provision. I therefore find that there would be no unacceptable impact on the settlement from the proposed two additional dwellings.
  11. Whilst outside of the settlement, the closeness of the site to it means the proposal would not result in a form of development that conflicts with the spatial strategy's aim of directing development to Key Centres such as Pontesbury. Moreover, given the lack of demonstrable harm to services and

facilities within the settlement, I find instead that the provision of two additional family homes would provide modest social and economic benefits. These would largely stem from the additional occupiers that would contribute to the vitality of Pontesbury.

12. Although I have been mindful of the allocations of the SHLAA as submitted by the appellant, I have been provided with only very limited information as to the status of the document and the context of the allocation. Therefore, whilst I have been mindful of it, it has not been determinative.
13. As the proposal is only at outline stage, with all matters other than access being reserved, it is not possible to consider the design of the resultant site and two dwellings. However, from the information before me and my observations on site I find that it would be possible for a design to be found that would protect the character of the site's countryside setting. In considering this I have been mindful of the existing dwellings adjoining the site. These are retiring features as a result of their siting, design and landscaping.
14. The proposal by way of its location and the provision of two new dwellings would maintain and enhance the vitality, and sustainability, of Pontesbury. It would therefore comply with the spatial strategy and hierarchy for residential development set out in ACS Policies CS4 and CS5 and SAMD Policies S12, MD3 and MD7a. The proposal would also comply with the aims of section 5 of the Framework with regards to directing housing to areas where it maintains or enhances the vitality of rural communities and supports local services.

### **Other Matters**

15. I understand that there is some disagreement as to whether the shared access track used by the existing two dwellings is available for use by the appellant. Any covenants, legal agreements or disputes over ownership with regard to this are outside of the remit of this appeal and it would need to be dealt with by the appellant separately.
16. My attention has been drawn to several appeal decisions<sup>1</sup> and I note the comparisons made. Whilst other planning and appeal decisions are capable of being material considerations, all decisions turn on their own particular circumstances based on the facts and evidence before those decision-makers or Inspectors at the time. However, in my consideration of this appeal I have been mindful of the previous Inspectors' interpretations of the relevant policies.

### **Conditions**

17. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
18. For certainty, I have set out the reserved matters as well as the timescale for their submission and the commencement of works. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.

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<sup>1</sup> Appeal Reference: APP/L3245/W/21/3267148, APP/L3245/W/21/3288834, APP/L3245/W/22/3310764

19. In the interests of highway safety on and around a site, a condition is required to provide additional details of how access would be provided for refuse collection, deliveries and emergency vehicles. Although access is not a reserved matter, the requested details would be dependant on the site layout, which is a reserved matter. A condition is also necessary for a coal mine gas assessment to be made in the interests of the health, safety and wellbeing of future occupiers. This must be made prior to the commencement of works as it may inform the way in which the development is carried out.
20. Given its rural location and the results of the ecological survey it is necessary for the purposes of protecting biodiversity, character and appearance that a landscaping plan be submitted. This would need to be submitted prior to the commencement of works so that it can inform the layout of the development and the retention of important features. Conditions requiring bat and bird boxes, and controls on external lighting are also necessary to ensure any harm to biodiversity is at least mitigated.
21. Access is a matter for consideration at this stage of the planning process. Issues revolving around the suitability of the access road, including the presence of gates, the condition, width and length of the track and the presence of any passing bays would therefore have been considered at this stage. A condition requiring further details to be submitted on these issues would not, therefore, be reasonable.
22. The layout of the drainage may not reflect the layout of the houses ultimately approved at the reserved matters stage. As such, it would not be appropriate to condition the surface and foul water drainage systems to the plan submitted under drawing no BC-GA-701.

### **Conclusion**

23. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

*Samuel Watson*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.



- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 76815/23/01 rev A, 76815/23/02 rev A and Ecological Impact Assessment of Land.
- 5) Additional details of procedure for refuse collection, deliveries and emergency vehicle access should be provided on submission of a reserved matters application.
- 6) No development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
  - a. Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, hedgehog-friendly gravel boards and amphibian-friendly gully pots);
  - b. Written specifications for establishment of planting and habitat creation;
  - c. Schedules of plants/seed mixes, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
  - d. Implementation timetables. Native species used are to be of local provenance (Shropshire or surrounding counties). The plan shall be carried out as approved.
- 7) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a mine gas risk assessment has been undertaken to assess the potential for mine gases to exist on the site. The mine gas risk assessment shall be undertaken by a competent person as defined in the National Planning Policy Framework and conducted in accordance with CL:AIRE - Good Practice for Risk Assessment for Coal Mine Gas Emissions; October 2021 and having regard to current Environment Agency guidance Land Contamination: Risk Management (LCRM; 2020). The Report is to be submitted to and approved in writing by the Local Planning Authority before development commences.
  - a. In the event of the mine gas risk assessment finding the site to be affected by mine gases a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must have regard to current guidance and standards and ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
  - b. The works detailed as being necessary to make safe the mine gases shall be carried out in accordance with the approved Remediation Strategy.
  - c. In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of the Environment Agency guidance Land Contamination: Risk Management (LCRM; 2020), which is subject to the approval in writing by the Local Planning Authority.
  - d. Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in

writing by the Local Planning Authority that demonstrates the risks from mine gases and any contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land. Verification must be in accordance with current guidance and standards.

- 8) Prior to first occupation or use of the buildings hereby permitted, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.
- 9) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trusts Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.



## Appeal Decision

Site visit made on 10 April 2024

by **H Wilkinson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 April 2024

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**Appeal Ref: APP/L3245/D/23/3330781**

**Windy Ridge, Beamish Lane, Albrighton, Shropshire, WV7 3JJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Simon Alderson against the decision of Shropshire Council.
  - The application Ref is 23/02181/FUL.
  - The development proposed is the construction of retaining wall to rear of garden bordering High House Lane, Albrighton.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The appeal is accompanied by additional information including an Arboricultural Method Statement (AMS) and a Tree Protection Plan (TPP). This detail was not before the Council when the planning application was determined. However, it does not fundamentally change the scheme that was considered and consulted upon by the Council. In considering this information as part of the appeal, I do not consider that this would cause procedural unfairness to interested parties.

### Main Issue

3. The main issue in this appeal is the effect of the proposal on the character and appearance of the area with particular regard to existing trees and hedgerows.

### Reasons

4. The appeal site is occupied by a detached property and comprises a spacious plot which sits within a row of dwellings. The proposed retaining wall would be located along the rear boundary of the appeal site which backs onto High House Lane. There are several mature trees located in this area of the garden which are attractive specimens, substantial in size and prominent within their setting. Despite the recent clearance of roadside vegetation along High House Lane, the trees within the appeal site together with the abundance of mature trees and dense vegetation remaining along this section of the lane, make a positive contribution to the verdant, semi-rural character and appearance of the area.
5. The submitted plan identifies that the proposed retaining wall would be located within the Root Protection Areas (RPAs) of several trees and adjacent to a well-established, dense hedgerow. To minimise root disruption, the AMS sets out general methods including excavations by hand and consultation before

severing roots within the RPAs. Protective fencing would also be erected during the construction phase.

6. However, in the absence of a clear, site-specific construction methodology and investigation which take account of the respective ground levels and steeply sloping bank, I cannot be certain that the above measures would be sufficient to prevent damage to the roots of the trees and hedgerows which are intended to be retained. Whilst I have considered the possibility of imposing a condition to ensure that the development is constructed in a way to safeguard the existing landscaping and the contribution that it makes to local character, given the uncertainty, I cannot be confident that a condition would safeguard the well-being and integrity of the trees or hedgerow. A condition therefore would not make the development acceptable.
7. Whilst it may be the case that subsequent dialogue between the appellant and the Council has resolved the matter in dispute, the evidence before me nevertheless fails to demonstrate that there would be no adverse effects on the existing trees and hedgerow. These landscape features make a positive contribution to the verdant, semi-rural character and appearance of the area and their loss or diminution would be harmful to this local distinctiveness.
8. Accordingly, I find that the proposal would harm the character and appearance of the area contrary to Policies CS6 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy 2011. Collectively, and amongst other aspects, these policies seek to ensure that proposals contribute to local distinctiveness and protect and enhance the high quality and local character of the natural and built environment. It would also be inconsistent with the design objectives of the National Planning Policy Framework (the Framework).

### **Conclusion**

9. The appeal proposal would conflict with the development plan as a whole and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, the appeal is dismissed.

*H Wilkinson*

INSPECTOR



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# Appeal Decision

Hearing held on 9 April 2024

Site visit made on 9 April 2024

**by Helen Hockenhull BA(Hons) B.PI MRTPI**

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

**Decision date: 10<sup>th</sup> May 2024**

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**Appeal Ref: APP/L3245/W/23/3334142**

**Land east of Knowle Bank Farm, Priorslee Road, Shifnal, Shropshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Stuart Broadley against the decision of Shropshire Council.
  - The application Ref 23/01556/FUL, dated 3 April 2023, was refused by notice dated 1 June 2023.
  - The development proposed is the change of use of land to a mixed use for the stabling of horses and as a residential caravan site for two gypsy families, each with two caravans including no more than one static caravan, laying of hardstanding and erection of two ancillary amenity buildings.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. During the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. In addition, an update to the Planning Policy for Traveller Sites (PPTS) was also published amending the definition of Gypsies in Annex 1. I take account of them in this decision.
3. The Council and the appellant have prepared a Statement of Common Ground (SoCG) setting out the areas of agreement and areas of dispute. One area of disagreement relates to the Gypsy status of the appellant and the other family who are to occupy one of the proposed pitches on the site.
4. The Council's Gypsy and Traveller Liaison Officer is not aware of either family from his work in the County and cannot therefore confirm their status. At the hearing the appellant confirmed that he and his family had a long-standing Gypsy heritage. The appellant is a roofer and both he and his sons, as well as the head of the other household, travel for work in the West Midlands and Shropshire areas. I was advised that the other family have relatives in the Shifnal area, this being one of the reasons they wish to relocate to the appeal site.
5. There is no clear-cut evidence to put the question of the occupier's Gypsy status beyond doubt. I appreciate the difficulties in providing this. I take account of the fact that should the appeal be allowed; a condition could be imposed to restrict the occupation of the site to those meeting the definition of Gypsies or Travellers in the Planning Policy for Traveller sites. If the occupiers were not Gypsies, they would be in breach of this condition.

6. In conclusion I accept, on the balance of probabilities, that the intended occupiers of the site are Gypsies.

### **Main Issues**

7. The main issues in this case are:

- Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) including its effect on openness and the purposes of the Green Belt; and
- whether the proposal meets locally specific criteria for Gypsy and Traveller sites;
- whether the proposal preserves or enhances the character or appearance of the Haughton Conservation Area and whether it causes harm to the setting of heritage assets in the locality;
- the effect of the proposal on ecology;
- If it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

### **Reasons**

#### **Background and Planning History**

8. Planning permission is being sought for the change of use of the land to a mixed use for stabling and a residential caravan site for two Gypsy families, each with two caravans including no more than one static caravan/mobile home, laying of hardstanding and erection of two amenity buildings.
9. Currently the site is occupied by a stable block constructed in 2018 and two dilapidated mobile homes used by the previous landowner in connection with an equine use. They were not occupied for residential purposes. There is also an area of existing hardstanding around the stable block though I observed on my site visit that much of this is now overgrown with grass. The Council confirmed at the hearing that the stable block does not have planning permission but because of its age it is now immune from enforcement action.
10. The appeal site is located within the Green Belt and lies to the south of the Haughton Conservation Area, south west of the Grade II\* listed Haughton Hall and to the east of Knowle Bank Farm, a non-designated heritage asset.

#### **Inappropriate development**

11. The Framework is clear that the government attaches great importance to Green Belts and that their essential characteristics are their openness and permanence.
12. Policy E of the PPTS specifically defines traveller sites as inappropriate development in the Green Belt (paragraph 16). The parties agree in the SoCG that in principle the proposal forms inappropriate development in the Green Belt.

13. Notwithstanding the above, there was some debate at the hearing with regard to whether the proposal could be considered as a rural exception site. Paragraph 154 of the Framework sets out exceptions where new buildings in the Green Belt would not form inappropriate development, part f) being limited affordable housing for local community needs including rural exception sites. These are defined as sites addressing the needs of the local community by accommodating households who are current residents or have an existing family or employment connection. Policy CS12 of the Shropshire Core Strategy which relates to Gypsy and Traveller provision, amongst other things, supports suitable development proposals for small exception sites (under 5 pitches) in accordance with Policy CS5 where a strong local connection is demonstrated.
14. The Council's second reason for refusal, assumes that a rural exception site is being applied for and states that the applicant has failed to identify a strong local connection as required by the third bullet point of Policy CS12. However, the original planning application did not seek permission for a rural exception site and unsurprisingly included no supporting information to demonstrate the required local connection. It is my view that whilst the appellant does some work in the area and has an economic connection, because a rural exception site was not applied for, the second reason for refusal falls away. Part f) of paragraph 154 of the Framework does not apply, and therefore gives no support to the appeal proposal.
15. Accordingly in summary, I find that the appeal submission forms inappropriate development in the Green Belt as set out in the Framework.
16. Turning to openness, this is an essential characteristic of the Green Belt. It has a visual dimension as well as a spatial aspect. I observed on my site visit that the appeal site is well set back from the road, accessed from a private track. It is very well screened by existing hedgerows and vegetation such that it is not visible from public viewpoints. The proposal includes additional boundary planting and landscaping to the north, east and western boundaries of the site which would further screen the proposal. I therefore conclude that the proposal would cause no harm to the visual dimension of the Green Belt.
17. In spatial terms, whilst I acknowledge the presence of the existing stable building, an area of hardstanding and the two derelict mobile homes, the proposal would introduce further built development on to the site. In particular, the addition of the two touring caravans, the two amenity buildings and the extension of the hardstanding area. There would also be an element of domestic paraphernalia from the residential use of the site.
18. As a result, the scheme would further urbanise the site, leading to a loss of openness. The harm caused to the Green Belt would be significant.
19. The five purposes of the Green Belt are set out at paragraph 143 of the Framework. As part of the evidence base for the emerging Local Plan the Council commissioned a Green Belt Assessment which considered the performance of Green Belt across Shropshire by dividing it up into parcels of land for assessment against the five purposes. The appeal site lies in Parcel P10, a much larger area of land to the west of Shifnal and east of Telford. The Assessment concluded that this parcel made a strong contribution to preventing neighbouring towns coalescing, a moderate contribution to safeguarding the countryside from encroachment and a strong contribution in

preserving the setting and special character of historic towns and also to assist in urban regeneration.

20. Whilst I have noted the above, the appeal site forms only a very small part of Parcel 10, and it cannot be argued that in isolation, it would have the same impact on the Green Belt purposes. Nevertheless, the proposal would introduce built development into the countryside. In doing so, and impinging on openness as described above, the proposal would not be consistent with the Green Belt purpose of safeguarding the countryside from encroachment. Given the size of the site in relation to the wider Green Belt in which it sits, the harm caused in this regard would be limited.
21. Bringing matters together, I find that the proposal would form inappropriate development for the purposes of national Green Belt policy as set out in the Framework. It would also fail to preserve the openness of the Green Belt and conflict with one of the purposes of including land within it. This harm attracts substantial weight as set out at paragraph 153 of the Framework. It would also be contrary to Core Strategy Policy CS5 which seeks to strictly control new development in accordance with national planning policies.

### **Locally Specific criteria for Gypsy and Traveller sites**

22. Shropshire Core Strategy Policy CS12 provides locally specific guidance for Gypsy and Traveller provision. It sets out five bullet points which seek to address the accommodation needs of this sector of the community, three of which are relevant to this appeal. The third bullet point provides for small exception sites which I have already discussed above.
23. The second bullet point supports suitable development proposals for sites close to Shrewsbury, the Market Towns and Key Centres, Community Hubs and Community Clusters. Shifnal forms a Key Centre. As the appeal site lies outside the settlement, the question is whether the site is 'close to' the settlement as required by the policy.
24. There is no definition in the supporting text as to what this means. However, the fifth bullet point of the policy, amongst other things, seeks to ensure that sites are reasonably accessible to services and facilities.
25. It is agreed in the SoCG that the appeal site is approximately one mile from Shifnal to the east and within a mile of Telford Services to the west. Shifnal contains a supermarket, schools, other shops, a medical practice and a rail station. The service area contains a supermarket and food outlets. The parties agree that the appeal site is reasonably accessible to services and facilities. A position with which I concur. This leads me to conclude that the appeal site can also be viewed as being 'close to' a key service centre.
26. Bullet point 5 also requires development to incorporate suitable design and screening, have suitable access, areas for manoeuvring caravans and parking and make provision for essential business purposes and recreation facilities. Sites must also meet the requirements of Policy CS6, (Sustainable Design and Development Principles) and the critical infrastructure provision of Policy CS9. I have no evidence before me to suggest that the proposal does not comply with any of these policy requirements.
27. In conclusion, given the above, I find no conflict with any of the relevant criteria in Policy CS12.



## Heritage Assets

28. The appeal site lies to the southwest of Haughton Conservation Area (CA) and the Grade II\* listed Haughton Hall and to the east of Knowles Bank Farm a non-designated heritage asset.
29. The original planning application was not accompanied by a Heritage Impact Assessment which led to the Council's third reason for refusal that the development would result in harm to nearby heritage assets.
30. The CA encompasses the small hamlet of Haughton and includes Wesley Brook which forms part of its southern boundary. The hamlet has a strong rural character with frequent views of the open countryside and a verdant appearance. This arises from the semi-natural vegetation that flanks the brook as well as the mature vegetation that is present in its generous gardens. Its buildings are generally large and set back from the road behind coursed stone rubble and brick boundary walls. Given the above, I find that the significance of the CA to be primarily associated with its loosely arranged dwellings, distinctive boundary walls and mature trees.
31. The appeal site is separated from the CA by dense woodland either side of the brook. This creates a visual barrier between the two. I am satisfied that having regard to the distance between the appeal site and the CA, as well as the existing screening, that the scheme would cause no harm to the character or appearance of this heritage asset.
32. Haughton Hall is located around 300 metres to the east of the appeal site. It was originally a house, then a school and is now a hotel and leisure club. Listed in 1955, it was constructed around 1718 and has early 19<sup>th</sup> and 20<sup>th</sup> century two storey flanking wings. This red brick two storey country house has a seven-bay frontage with early 19<sup>th</sup> century stucco facing. Its significance derives from its architectural and historic interest.
33. The Hall is set in lawned gardens surrounded by woodland. It is orientated north south so that the main façade faces toward the access drive and the rear faces lawns and open fields. Views from the Hall to the east and west are contained by woodland which make a significant contribution to its setting.
34. I observed on my site visit that there is no intervisibility between the Hall and the appeal site. Accordingly, it is my view that the appeal site does not contribute to the building's setting and therefore causes no harm to its significance.
35. Knowle Bank Farm lies around 100 metres to the east of the appeal site. This farmstead, now converted to residential use, is recorded on the historic environment record as part of both the 1982-83 Farm Buildings Survey and the later Historic Farmsteads Characterisation Survey. As a result of the separation distance, the intervening stable building and proposed landscaping, I am satisfied that the proposal would cause no harm to this non designated heritage asset.
36. In conclusion, the appeal scheme would preserve or enhance the character or appearance of the Haughton Conservation Area and cause no harm to the setting of heritage assets in the locality. In this regard the proposal complies with section 16 of the Framework as well as Policies CS6 and CS17 of the Core

Strategy 2011 and Policy MD13 of the SAMDev Plan 2015 which seek to conserve and enhance the historic environment.

## **Ecology**

37. The Council raised concern that an ecological impact assessment has not been undertaken and therefore it cannot be said that the proposal would protect and conserve the natural environment. The appellant submitted a copy of an Ecological Statement with the appeal submission. This was prepared by a local resident's group to determine the ecological value of land around Knowle Bank Farm.
38. The survey did not however specifically look at the appeal site, though it did survey the access to the site. This is bounded by mature hedgerows and the Statement concludes that it provides an excellent dark corridor for nocturnal wildlife such as bats and larger mammals.
39. Clearly, the existing hedgerows to the southern site boundary are important to provide a wildlife corridor. A section of this would need to be removed to create the access to the site. It is proposed to plant new hedgerow to the north, east and west boundaries which would replace that to be removed and more.
40. I accept that the appeal site forms hardstanding and grassland which is likely to be of poor ecological value. However, without an appropriate appraisal, the value of the site, including the boundary hedgerows, the impact of the development and any necessary mitigation has not been assessed.
41. In summary, I conclude that the proposal fails to comply with paragraph 180 of the Framework and also Policies CS6 and CS17 of the Core Strategy and Policy MD12 of the SAMDev Plan. These policies seek to conserve and enhance the natural environment and minimise impacts on biodiversity.

## **Other considerations**

### *The need and supply of Gypsy sites*

42. The Council's Gypsy and Traveller Accommodation Assessment Update (GTAA) 2019 estimates a cultural need for 113 permanent pitches in the period 2016/17 to 2037/38, of which 42 pitches are required to accommodate Gypsies and Travellers who comply with the PPTS definition.
43. The GTAA concluded that there was no need to allocate new Gypsy and Traveller Sites in the emerging Local Plan as the level of turnover on public sites was sufficient to accommodate future needs. High levels of turnover on public sites are to an extent to be expected as many Gypsy families wish to have their own site. The PPTS seeks to increase private site provision. Relying on turnover on public sites does not meet this need, though I accept that such sites can be provided through the development management process.
44. The GTAA states that there is an annualised cultural need of 5.1 pitches<sup>1</sup>. The Council advised at the hearing that between 2019 and 2023, planning permission was granted for 23 pitches. This represents a slight shortfall on the cultural need figure for this five-year period, ie. 25 pitches.

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<sup>1</sup> Paragraph 7.29

45. The GTAA supports the emerging Local Plan which at the time of the hearing was still being examined. I understand that the GTAA Update was scrutinised by the emerging Local Plan Examining Inspectors and the Council were asked to undertake some further work. This evidence is not before me.
46. I am conscious that the 2019 GTAA is based on survey work undertaken in 2017 and is therefore dated. It cannot be ruled out that the actual need may well be different to the GTAA and trends in relation to turnover may have also changed. The Council advised at the hearing that there are currently vacancies on two public sites which may indicate a continuing turnover of pitches and no lack of supply. However, this is clearly only a snapshot in time and only part of the overall picture of need.
47. The PPTS requires that local planning authorities identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets. At the hearing the Council were unable to provide such a figure or identify sites, perhaps understandably due to the reliance on turnover. A reliance on turnover does not represent positive planning to meet an acknowledged need and does not equate to deliverability in terms of national policy.
48. I appreciate that the Council's further evidence of need is still being assessed in detail through the Local Plan examination. However, based on the evidence before me in this appeal, I can only conclude that at the current time, a five-year supply of Gypsy and Traveller sites has not been demonstrated.

#### *Alternative accommodation*

49. The Council advised that at the time of the hearing there were three available pitches on the Park Hall public site and also availability at Craven Arms, though the actual number of pitches at the latter site was uncertain.
50. The appellant keeps horses and therefore would need a site where grazing would be available at the site or nearby. This is not the case with the public sites suggested. I was not made aware if any private sites being available.
51. Therefore, given the above, I conclude there are no suitable alternative sites in the Shropshire area available to the intended occupiers of the site. The lack of suitable alternative accommodation weighs in favour of the appeal.

#### *Personal circumstances*

52. The appeal site provides two pitches. The first pitch is to be occupied by the appellant, his wife and three children. All the children are adults and in employment. The appellant's wife is also a carer for her disabled sister who lives there. The appellant is currently renting a site and grazing land in Bromsgrove, and I was advised has been given notice to vacate.
53. The second family comprises two parents and three children aged 13, 11 and 10. They are currently living on a site in Solihull with relatives. This is however a temporary solution, and they need to move to a permanent more suitable site. The two older children are tutored, and the youngest child attends a local primary school where they currently live. A settled permanent base would clearly be of benefit for the children's ongoing education.

54. I heard evidence of the appellant's health issues and that of his disabled sister-in-law who I was informed was currently in hospital but due to be discharged very soon. I understand that the father of the second family also has some health issues. A settled base would ensure continuing access to a GP and hospital facilities. I give significant weight to these health needs. The other intended occupants of the site are all registered with local doctors where they currently reside.
55. Clearly access to education and healthcare would be advantageous to the wellbeing of the two families and would be in the best interests of the children. These matters count in favour of the proposal and accord with the aims of the PPTS to enable the provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure.

**Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.**

56. The Framework attaches great importance to the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development in the Green Belt will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
57. The proposal would be inappropriate development in the Green Belt and as such would cause substantial harm. I have found that it would also cause significant harm to openness and limited harm to one of the purposes of the Green Belt, the protection of the countryside from encroachment. Furthermore, the lack of harm to ecology matters has not been demonstrated. These factors attract substantial weight against the scheme.
58. However, set against this are several considerations which weigh in favour of the development. These include the lack of a five-year supply of Gypsy and Traveller sites in the area, the lack of alternative sites suitable for the appellant's family and the other intended occupants, and the contribution that the site would make to the supply of Gypsy and Traveller sites.
59. As set out above, the personal circumstances of the appellant and the other proposed occupants, the provision of a settled and permanent base, the access to education and health facilities and the ability to care for their horses are benefits of the proposal which count in its favour.
60. The proposal would be located relatively close to Shifnal, a Key Centre, which would provide access to services and facilities. The site would therefore meet the sustainability considerations of paragraph 3 of the PPTS. I have found in this respect that the site would also meet the requirements of Policy CS12. However, the absence of harm in this regard counts neither for nor against the proposal. The lack of harm to nearby heritage assets also forms a neutral matter.
61. At the hearing the Council suggested a 12-month temporary permission. The appellant suggested that a three-year temporary permission would be more appropriate if I were to consider this to be justified in this case. Such a permission with a limited period would to some extent lessen the scheme's

- impact on the Green Belt and reduce the amount of resultant harm. Such a permission may be justified if it can be demonstrated that there would likely be a change of circumstances in the future, such that alternative sites outside the Green Belt could be available to the appellants. At the moment the emerging Local Plan is not allocating any sites for Gypsy and Travellers and therefore it is uncertain that site availability would improve when the plan is adopted.
62. A further consideration is the financial investment that would be required before the site could be occupied, such as the provision of a wastewater treatment plant and other services. This would certainly not be viable for a 12-month temporary period. I also bear in mind the harm to the Green Belt that would be caused even on a temporary basis. Taking all these factors into account, I consider that a temporary permission is not justified.
63. I have also given consideration to whether a personal permission would be appropriate, restricting the occupation of the site to the intended occupiers. I take account of Policy E of the PPTS which advises that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. Accordingly, in this case I do not consider a personal permission to be justified.
64. I have had regard to the requirements of Article 8 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998, and am aware that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Convention on the Rights of the Child. However, I am mindful that the appellant's individual rights for respect for private and family life (along with the best interests of the children) must be weighed against other factors including the wider public interest and legitimate interests of other individuals.
65. I have also considered the Public Sector Equality Duty (PSED) at section 139 of the Equality Act 2010 to which I am subject. Since I have found the appellant and occupiers of the site to have Gypsy status, Section 149 of the Act is relevant. Because there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 (1) of the Act.
66. To dismiss the appeal would disrupt the education of the three youngest children and the healthcare of the appellant and his sister-in-law. The negative impacts of dismissing the appeal arise since the families may be forced to leave where they are currently residing and take up a roadside existence or occupy an unauthorized site. This would interfere with the best interests of the children and each member of the family's right for respect for private and family life and lends some additional weight in favour of the appeal.
67. However, I have found that the proposal would cause substantial harm to the Green Belt, harm to openness and would result in encroachment into the countryside. I am satisfied that the well-established and legitimate aim of granting planning permission in accordance with the development plan and planning policies which seek to protect Green Belts and the countryside in the wider public interest, can only be adequately safeguarded by the refusal of permission in this instance. Whilst bearing in mind the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on the appellant and the families concerned are necessary and proportionate.

68. Given the above, the other considerations in this case and the benefits of the proposal, even taking into account the family's Article 8 rights and the PSED considerations, do not clearly outweigh the totality of the harm identified. As such, the very special circumstances necessary to justify the development do not exist.

**Conclusion**

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

*Helen Hockenhull*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT

Philip Brown

Philip Brown Associates Ltd

Stuart Broadley

Appellant

FOR THE LOCAL PLANNING AUTHORITY

Louise Evans

Principal Planning Officer

Daniel Corden

Principal Policy Officer

Anna Jones

Senior Policy Officer

By virtue of paragraph(s) 6a, 6b, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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