

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

Date: Monday, 17 June 2024

Committee:
Southern Planning Committee

Date: Tuesday, 25 June 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 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 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

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 4)

To confirm the minutes of the Southern Planning Committee meeting held on 21 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 20 June 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 Dwelling South Of Plealey Shrewsbury Shropshire (24/00121/FUL) (Pages 5 - 26)

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

6 Proposed Dwelling North West Of Pleasant View Rowley Shropshire (24/01047/REM) (Pages 27 - 38)

Approval of reserved matters (appearance, landscaping, layout and scale) in pursuance of outline planning permission No. 22/04011/OUT, for erection of pair of two-bedroomed affordable dwellings

7 Catsley View Meaton Lane Meaton Kinlet Bewdley (24/01556/FUL) (Pages 39 - 50)

Change of use of land to domestic, demolition of existing cattery building and erection of a domestic outbuilding

8 Schedule of Appeals and Appeal Decisions (Pages 51 - 74)

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 23 July 2024 in the Shrewsbury Room, Shirehall.

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Committee and Date

Southern Planning Committee

25 June 2024

SOUTHERN PLANNING COMMITTEE

Minutes of the meeting held on 21 May 2024

2.00 - 3.55 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 Nick Hignett (Vice Chairman), Caroline Bagnall, Andy Boddington, Richard Huffer, Christian Lea, Nigel Lumby, Tony Parsons, Ed Potter, Robert Tindall and Claire Wild (Substitute) (substitute for David Evans)

4 Apologies for Absence

Apologies for absence were received Councillors David Evans and Hilary Luff

Councillor Claire Wild substituted for Councillor Evans

5 Minutes

RESOLVED:

That the Minutes of the meetings of the Southern Planning Committee held on 16 April 2024 and 9 May 2024 be approved as a correct record and signed by the Chairman.

6 Public Question Time

There were no public questions

7 Disclosable Pecuniary Interests

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

In respect of agenda item 5 Councillor Nigel Lumby declared that he was the local Member and that he would make a statement and then withdraw from the meeting and take no part in the debate or voting.

In respect of agenda item 6 Councillor Richard Huffer declared that he was the local Member and that he would make a statement and then withdraw from the meeting and take no part in the debate or voting.

8 Proposed Residential Development Land East of Shaw Lane Albrighton Shropshire (23/02095/OUT)

The Senior Planning Officer introduced the application which was an application for outline planning permission for up to 90 dwellings, to include access only and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location and layout. The Senior Planning Officer drew members attention information set out in the schedule of late representations.

Councillor Colin Noakes spoke on behalf of Albrighton Parish Council in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Councillor Nigel Lumby spoke as the local member in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees. He then left the room and took no part in the debate or voting.

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

Members welcomed the revised access onto Kingswood Road which they considered to be much safer than the previous access onto Shaw Lane, they requested that the applicant consider providing more parking spaces than currently proposed.

A Member asked that any reserved matters application be brought back to the Committee for determination.

RESOLVED

That in accordance with the Officer recommendation outline planning permission be granted and delegated authority be given to Officers to secure a Section 106 Agreement as described in the report and any necessary conditions.

It was also agreed that the reserved matters application would be brought back to the committee for determination

9 Brick House Farm Greete Ludlow Shropshire SY8 3BZ (24/00764/VAR)

The Principal Planner introduced the application which was an application for the Variation of Condition 2 (approved plans) and removal of Condition 17 (food production) of planning permission No. 22/02565/FUL and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location and layout.

Councillor Richard Huffer spoke as the local member in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees. He then left the room and took no part in the debate or voting.

Jonathan Selwyn spoke on behalf of the applicants in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In response to a question regarding the Ministerial Statement published on 15 May 2024 the Principal Planner commented that it mainly reiterated the National Policy Statement which had been issued in January and was produced for determining Nationally Significant Infrastructure Projects for which the current scheme was just under the threshold for. That being the case, whilst the Ministerial Statement and the National Policy Statement could be a material consideration for determination, it does not change the policy context of the planning application.

Members expressed concern regarding the loss of the food opportunity areas (FOA) and commented that they felt there had not been sufficient information submitted regarding efforts made to let the land for food production and the numbers of sheep that would graze the area if the FOAs were removed to justify the loss of the best and most versatile land.

RESOLVED:

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

Taking into account recent ministerial advice, insufficient information has been provided with the application as to the amount of sheep grazing the land could sustain combined with a lack of information regarding the endeavours to get others to farm on the best and most versatile agricultural land which has led to greater weight being placed on the protection of best and most versatile agricultural land over the benefits of the scheme with regards to increased energy production in the planning balance. The proposals are therefore contrary to Shropshire Core Strategy Policy CS6 and paragraph 180B of the NPPF

10 Proposed Residential Dwelling South Of Plealey Shrewsbury Shropshire (24/00121/FUL)

The Development Manager introduced the application which was an application for the erection of a detached dwelling and conversion of Dutch barn to form garage/garden store and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location and layout.

Councillor Roger Evans read a statement on behalf of Pontesbury Parish Council in favour of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Councillor Roger Evans, local Ward Councillor spoke in favour of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

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

Members expressed concern that a site visit had not been held which would allow them to fully assess the impact of the application on the surrounding area.

RESOLVED

That consideration of the application be deferred to a future meeting to allow for a site visit.

11 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 21 May 2024 be noted.

12 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, 25 June 2024 in the Shirehall.

13 Exclusion of Press and Public

RESOLVED:

That 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.

14 Planning Enforcement Annual Report

Members received the report of the Assistant Director of Economy and Place which updated them on the performance of the enforcement team and the outcome of recent significant decisions. It also provided an update on recent changes in legislation.

RESOLVED:

That the content of the report be noted

Signed (Chairman)

Date:

AGENDA ITEM



Committee and date

Southern Planning Committee

21st May 2024

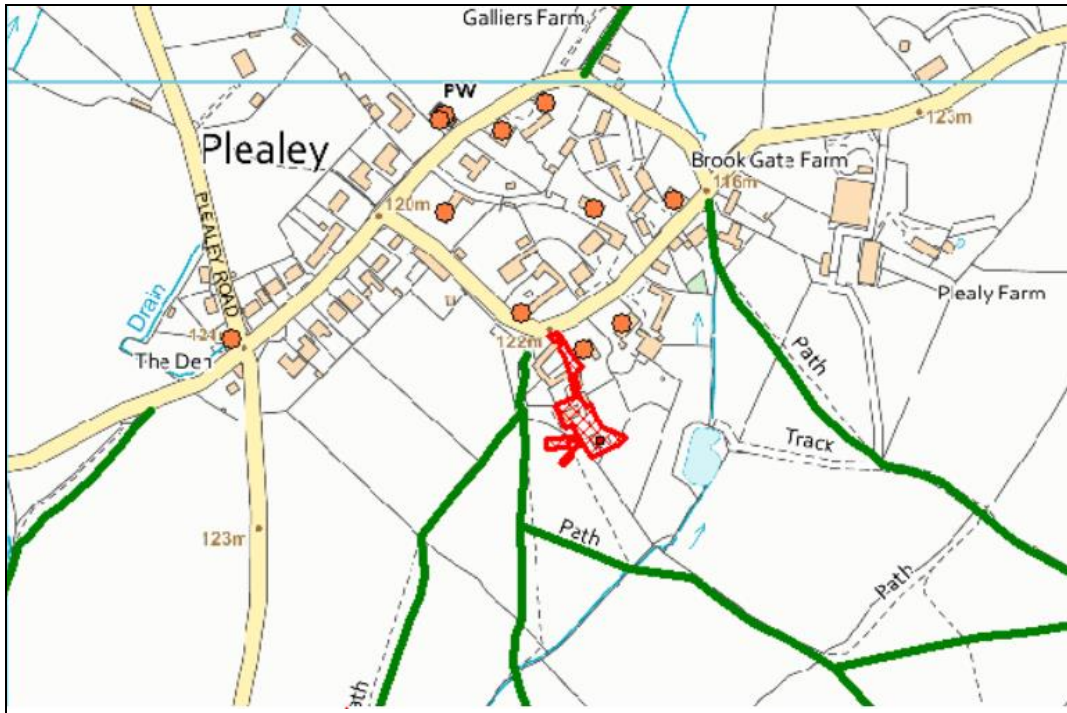
Development Management Report

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

Summary of Application

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

Grid Ref: 342453 - 306727



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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)
- 1.3 1.3 This report was previously presented to the Southern Planning Committee on 21st May where the committee resolved to deter the determination of the application in order that a site visit by the committee could take place.

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

AGENDA ITEM

Southern Planning Committee - 21st May 2024

Proposed Residential
Dwelling South Of

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

AGENDA ITEM

Southern Planning Committee - 21st May 2024

Proposed Residential
Dwelling South Of

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

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".
-

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 Hales¹ concerning the same housing distribution policies. However, I

¹ 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



Committee and date

Southern Planning Committee

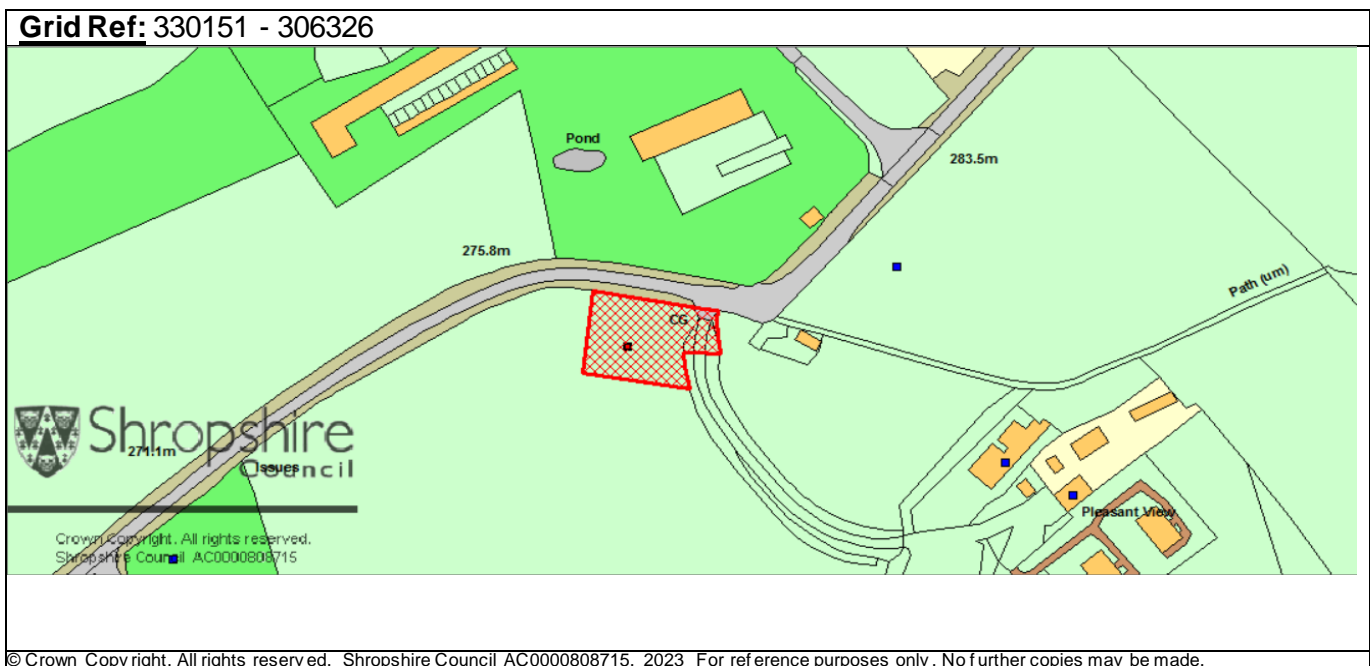
25th June 2024

Development Management Report

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

Summary of Application

<u>Application Number:</u> 24/01047/REM	<u>Parish:</u>	Worthen With Shelve
<u>Proposal:</u> Approval of reserved matters (appearance, landscaping, layout and scale) in pursuance of outline planning permission No. 22/04011/OUT, for erection of pair of two-bedroomed affordable dwellings		
<u>Site Address:</u> Proposed Dwelling North West Of Pleasant View Rowley Shropshire		
<u>Applicant:</u> Mr Gavyn Williams		
<u>Case Officer:</u> Helen Tipton	<u>email:</u> helen.tipton@shropshire.gov.uk	



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

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks approval of matters (specifically appearance, landscaping, layout and scale) reserved when outline planning permission was given for the erection of a pair of two bedroomed affordable houses with associated access and parking facilities, (22/04011/OUT refers).
- 1.2 Amended plans have been submitted during the course of the current application, in line with officer advice.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site lies to the south of the rural road that leads between the small settlement of Rowley and Long Mountain, approximately 0.6 kilometres to the west of the centre of Rowley.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

- 3.1 Contrary to the original officer recommendation, the associated outline application was approved at committee, subject to a caveat that the reserved matters application be brought back to planning committee for determination. As such, the application is referred for committee consideration, in accordance with the Council's adopted 'Scheme of Delegation.' The officer recommendation of approval is also contrary to that of objection from the Parish Council.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee comments

- 4.1.1 Historic England - no comment.

Refer to the Council's Conservation and Archaeological advisers.

- 4.1.2 Shropshire Council Drainage - no objection.

- 4.1.3 The drainage details provided are acceptable. An informative comment advises that the foul drainage would be calculated and overseen by Building Control.

- 4.1.4 Shropshire Council Highways - no objection.

The drawings demonstrate sufficient on-site parking and turning, swept path analysis and the proposed new access. The road, from which the access extends, has speed attenuating bends and the access itself is on the outside of a bend, affording visibility to drivers exiting the site, with the highway not heavily trafficked.

There are no objections, subject to the development being constructed in accordance with the submitted drawing (PL-003). Informative comments are provided.

4.1.5 Worthen with Shelve Parish Council - objection.

The parish council supported the outline application since it was for two x two bedroomed properties and the appearance and street scene were in keeping with the area.

The proposed changes refer to two bedrooms with a study. The footprints have increased, although this is below the Homes England guideline for a three bedroomed property, (100 sq. metres).

The appearance is urban in a rural setting and not in keeping and there are also concerns about the parking area.

4.1.6 Natural England - no comment.

Refer to Council Ecologist for advice.

4.1.7 Shropshire Council Archaeology - no comment.

We have no comments to make on this application in respect of archaeological matters.

4.1.8 Shropshire Council Affordable Housing - comment.

5 April 2024 -

Agree with concerns expressed by the Parish Council. Outline planning permission was granted based on 2 x 2 bedroomed affordable, rented dwellings. The accompanying Section 106 agreement restricts rent levels and occupation of the dwellings. The rent is restricted to the Local Housing Allowance, which is subject to an annual increase and thus increased on 1st April to £593.36 (for a 2 bedroom). With the high cost of construction, we would question why the dwellings now effectively propose three bedrooms and the maximum rent that can be sought relates to a two-bed dwelling. The application site appears to have increased in size from the Outline planning permission.

17 May 2024 -

To reiterate, the maximum rent that could be charged on these dwellings is the Local Housing Allowance for a 2-bed dwelling as per the application description.

4.1.9 Shropshire Council Conservation - no comment.

We have no comments to make in relation to conservation matters.

4.1.10 Shropshire Council Trees - comment.

9 April 2024 -

We have reviewed the submitted plans and details and can advise that the proposed development would have minimal impact on the tree resource of the area and no objection is raised. However, there are trees and hedgerows on site that are shown as retained and require protection in accordance with the details given in the submitted arboriculture report. A tree protection plan must be provided indicating positions of fencing etc., along with an arboriculture method statement. All tree protection measures specified must then be fully in place prior to development commencing.

7 June 2024 -

No objection in principle, however the submitted tree protection plan does not consider the off-set Root Protection Area (RPA) and how that will impact with the proposed access drive. The access drive must be constructed using a low impact method such as 'no dig' cellular confinement system. Use of a standard construction for the access drive would result in harm to the tree. Can these details be submitted?

4.1.11

Shropshire Council Ecology - no objection.

9 April 2024 -

We have reviewed the submitted Proposed Site Plan (Drawing No. PL-003) and are satisfied that the requirements of condition 14 of the outline permission have been met.

External lighting information is required in respect of condition 15.

31 May 2024 -

The external lighting proposed in the amended site plan (Drawing No. PL-003 Rev B) is considered sufficient to meet the requirements of condition 15.

4.2 Public comments

4.2.1 The application was advertised by way of site notice.

No public comments received.

5.0 THE MAIN ISSUES

Principle of development
Layout, scale, design and landscape impact
Access and highway safety
Ecology
Residential amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The principle of building two affordable dwellings here is established by the extant outline permission and cannot be revisited.

6.2 Layout, scale, design and landscape impact

6.2.1 General design criteria provided under Core Strategy Policy CS6 and the Site Allocations and Management of Development (SAMDev) Plan Policy MD2 should be satisfied. These expect development to reinforce local distinctiveness in terms of building forms, scale and proportion, heights and lines, density, and plot sizes, as well as materials and architectural detailing, although Policy MD2 also seeks to embrace opportunities for contemporary design solutions which take reference from local characteristics. The National Planning Policy Framework (NPPF) advises against preventing appropriate innovation or change and that development should be sympathetic to local character, including the surrounding built environment and landscape setting.

6.2.2 In terms of design, amended elevation plans have subsequently been submitted, at the request of Officers. These amendments now provide more traditional elements, such as vertically planked front doors and a heightened chimney. Although the amendments are minor and do not greatly change the overall appearance of the proposed buildings, they would be more traditional in character, particularly when observed from the front elevations and would not be unduly prominent. They would also relate to the rural vernacular, when considering the architectural variety of development in the surrounding area. A condition to control precise material details is recommended.

6.2.3 The main concerns relate to an increase in proposed footprint; addition of a study to the first floor of each property, with the potential for these rooms to be utilised as a third bedroom and the implications this could have in terms of affordability. Firstly, the plans provided at the outline stage were indicative only and ultimately not binding, so they cannot be used as a direct comparison. In accordance with outline condition 5, the footprint of both dwellings proposed remain below the 100 square metre limit for affordable housing. The agent has also provided an amended site plan and confirms that the site area is the same as that put forward under the outline application.

- 6.2.4 Whilst there is a potential for the study rooms to be used as bedrooms, a Section 106 agreement is in place which is specific to the description of the development, i.e. that each house would comprise of two bedrooms. Therefore, it is already established that, regardless of the amount of habitable space available, rent would be capped at the Local Housing Allowance rate for two bedrooms, ensuring those in local housing need would not be discouraged from renting the houses and that they would remain affordable in perpetuity.
- 6.2.5 The Council's Tree team have no objection, in principle, to the proposed landscaping, although there is some concern that construction of the access drive could impact on the Root Protection Area of the tree to be retained. As requested, a Tree Protection Plan has been submitted, although this does not fully alleviate those concerns. A condition is therefore recommended regarding the submission of a construction method statement for the access drive.
- 6.3 **Access and highway safety**
- 6.3.1 It is agreed with the Highways Development Control team that the access proposed is acceptable from a highway safety perspective.
- 6.4 **Ecology**
- 6.4.1 Details provided of the siting and type of bat and bird boxes, along with external lighting details are satisfactory and sufficiently meet the requirements of the outline conditions 14 and 15.
- 6.5 **Drainage**
- 6.5.1 The Council's Drainage team confirm that the submitted surface and foul water drainage details are satisfactory.
- 6.6 **Residential amenity**
- 6.6.1 There are no concerns regarding overlooking, overshadowing or general loss of outlook given the separation of the site from the nearest neighbouring dwellings.
- 7.0 **CONCLUSION**
- The principle of development is already established by the outline permission. Its proposed layout, scale and design are acceptable in the context of the site and its surroundings and it would not unduly affect the wider landscape. There are no significant or insurmountable concerns in terms of affordability, highway safety, ecology, drainage, or residential amenity. Overall, therefore, the application accords with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to appropriate conditions.

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 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

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework
CS4 - Community Hubs and Community Clusters
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD1 - Scale and Distribution of Development
MD2 - Sustainable Design
MD12 - Natural Environment
SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

20/05055/OUT Outline application (access for approval) for the erection of one 'eco' dwelling with garage and formation of new vehicular access REFUSE 10th June 2021
21/04556/OUT Outline application for the erection of a pair of semi-detached two bedroomed dwellinghouses to include associated access and parking facilities REFUSE 15th December 2021
22/04011/OUT Outline application for the erection of a pair of two bedroomed affordable houses with associated access and parking facilities GRANT 1st June 2023

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SAAVM6TDGEC00>

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

AGENDA ITEM

Southern Planning Committee - 25th June 2024

Proposed Dwelling North
West Of Pleasant View

Cabinet Member (Portfolio Holder) - Councillor Chris Schofield

Local Member

Cllr Mrs Heather Kidd

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

2. Notwithstanding the submitted Tree Protection Plan, Amended Site Plan (drawing number PL-003 Rev B) and Arboriculture Report (as submitted on 14th March 2024), prior to commencement of any works, a further revised method statement for construction of the proposed access drive shall be submitted to the Local Planning Authority (LPA) for approval in writing. This shall consider the offset Root Protection Area of the adjacent tree to be retained and shall include details of a low impact construction method, such as a 'no-dig' cellular confinement system.

Demonstration that the tree protection measures have been established on site shall also be submitted to the LPA for approval, prior to development commencing, (photographs of them in situ may suffice).

Reason: To ensure the external appearance of the development is satisfactory and to help safeguard the visual amenity and character of the wider landscape.

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

3. No above-ground development shall commence until precise details/samples of the external materials/finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and retained thereafter.

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

4. The site shall be landscaped, broadly in accordance with the approved, amended site plan, (drawing number PL-003 Rev B). Confirmation of precise species planting, including their size and timetables for implementation of the landscaping shall be submitted for approval prior to first use/occupation of the development.

Any trees or plants which, within a period of five years from the date of planting, die, are removed, or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species.

Reason: To ensure the external appearance of the development is satisfactory, and to help safeguard the visual amenity and character of the wider landscape.

Informatives

1. 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;
undertake 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 with a list of approved contractors, as required.

2. The applicant/developer is responsible for keeping the highway free from mud or other material arising from construction works.

3. The foul drainage field must be calculated in accordance with Building Regulations.

4. If the new vehicular access and/or parking/turning areas hereby permitted would slope towards the public highway, surface water run-off should be intercepted and disposed of appropriately. It is not permissible for surface water to drain onto the public highway or into highway drains.

5. Your attention is drawn to the need to ensure that appropriate refuse facilities are provided, for the storage and collection of household waste, (i.e., wheelie bins & recycling boxes). Specific consideration must be given to kerbside collection points, to ensure that all visibility splays, accesses, junctions, and all trafficked areas of highway (i.e., footways, cycle ways &

carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

6. Your attention is drawn specifically to the conditions above, and/or those attached to the associated outline planning permission No. 22/04011/OUT, which require the Local Planning Authority's prior approval of further details. In accordance with Article 27 of the Town and Country Planning (Development Management Procedure) Order 2015, a fee is payable to the Local Planning Authority for each request to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority.

Where conditions require the submission of details for approval before development commences or proceeds, at least 21 days' notice is required to allow proper consideration to be given.

Failure to discharge conditions at the relevant stages will result in a contravention of the terms of this permission. Any commencement of works may be unlawful, and the Local Planning Authority may consequently take enforcement action.

7. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

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AGENDA ITEM



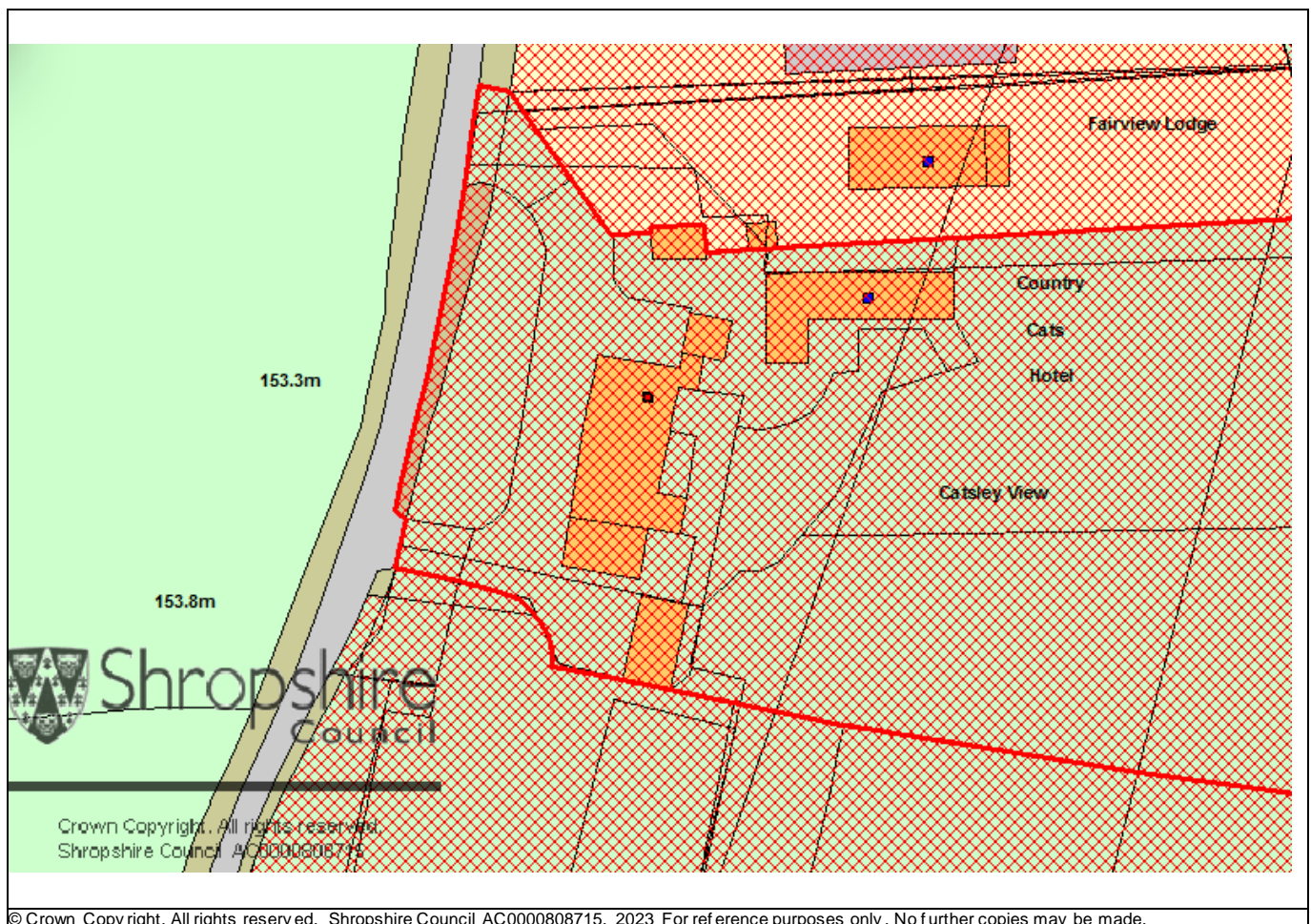
Committee and date
Southern Planning Committee
25th June 2024

Development Management Report

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

Summary of Application

<u>Application Number:</u> 24/01556/FUL	<u>Parish:</u>	Kinlet
<u>Proposal:</u> Change of use of land to domestic, demolition of existing cattery building and erection of a domestic outbuilding		
<u>Site Address:</u> Catsley View Meaton Lane Meaton Kinlet Bewdley		
<u>Applicant:</u> Mr Jamie Himsley		
<u>Case Officer:</u> Mandy Starr	<u>email:</u> mandy.starr@shropshire.gov.uk	
<u>Grid Ref:</u> 370846 - 279003		



Recommendation: - Refuse .

Recommended reasons for refusal

1. The proposed domestic outbuilding by virtue of its scale and size is considered to be excessive as it would not be read as subordinate to the existing dwelling and this would result in harm to the character and appearance of this rural area contrary to the requirements of Policies CS6 and MD2 of the local development plan policies and the NPPF.
2. The proposed design which includes the provision of extensive floor-to-ceiling glazing and decking would result in the building having an appearance that would be tantamount to the erection of a new dwelling in the open countryside which would be contrary to both national and local planning policies CS5, MD7a and the NPPF
3. The proposed outbuilding would have a different roof profile compared to the existing cattery building and as the ground slopes to the east the proposed new building would be more prominent than the cattery building and this would result in overshadowing and loss of light to the neighbour's property given that some of the site would need to be re-profiled to level the

site. Insufficient information has been provided to fully assess the proposed level changes or how the proposed development would relate to the neighbour's party boundary and the proposal is contrary to the local development plan policies CS6, MD2 and the NPPF

4. Insufficient ecological information has been provided to demonstrate that the development will not cause an offence under the 2017 Conservation of Habitats and Species Regulations (as amended) in relation to Bats contrary to the local development plan policies CS17, MD12 and the NPPF and secondly there is also a requirement to demonstrate biodiversity losses and gains including the provision for a 10% net gain for the development; as required by the local development plan policies and NPPF and utilising the DEFRA Statutory Biodiversity Metric/Small Sites Metric recent BS 8683:2021 'Process for designing and implementing Biodiversity Net Gain' and good practice guidance i.e. 'Biodiversity Net Gain ' Good Practice Principles for development', CIEEM, 2016.

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal is to change of use of land to domestic, demolition of existing cattery building and erection of a domestic outbuilding
- 1.2 The proposal firstly seeks to change the northern end of the property into new domestic curtilage, now that the former Cat Hotel business has ceased trading. As a result, the former staggered timber cattery building of some 107m² and with a height ranging from 2.7m to 3m high would be demolished and the site cleared.
- 1.3 Engineering works are proposed to re-profile this sloping land site, to create a platform to erect a new domestic outbuilding in the same location as the former cattery for the applicant's use only. This new building would have a floor area of 178m² including a small overhang with decking beyond and it would have a pent roof height with a height of between 3m and 3.9m and eaves of between 2.6m and 3.5m high.
- 1.4 The proposed new building would be used as a home gym, home office and recreational room for the applicant's family and friends.
- 1.5 The new building would be constructed of corrugated metal on the north elevation facing onto the adjacent mobile home, whilst the sides and part of the frontage would be stone and cedar cladding. The principal elevation would be mostly floor to ceiling glazing as would part of the east elevation, whilst the west elevation would be provided with 3No large windows. The roof would be a 5% single ply extensive green roof.

2.0 SITE LOCATION/DESCRIPTION

2.1 Catsley View is situated on the east side of Meaton Lane adjacent to a mobile home park to the north with the nearest mobile home being Fairview Lodge. The cattery building lies to the northeast of the existing bungalow and is at right angles to it and has its own access off Meaton Lane which is shared with Fairview Lodge.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have submitted a view contrary to officers
3.2 The two local ward members have requested that this application be presented to the Southern Planning Committee.
3.3 The application was presented to the Southern Committee Agenda Setting Meeting on 30 May 2024, where it was resolved that the application be presented to Planning Committee.

4.0 Community Representations

Consultee Comment SC Ecology – 10 May 2024

Additional information is required in relation to bats and Biodiversity Net Gain. In the absence of this additional information (detailed below), recommends refusal since it is not possible to conclude that the proposal will not cause an offence under the 2017 Conservation of Habitats and Species Regulations (as amended).

Biodiversity Net Gain

A planning application on this site should also be accompanied by information demonstrating biodiversity losses and gains, utilising the DEFRA Statutory Biodiversity Metric/Small Sites Metric and with accompanying documentation in line with BS 8683:2021 'Process for designing and implementing Biodiversity Net Gain' and good practice guidance i.e. 'Biodiversity Net Gain' Good Practice Principles for development', CIEEM, 2016. The development must demonstrate at least a 10% net gain in biodiversity.

SC Historic Environment – 8 May 2024

No comments

SuDS – 23 April 2024

This is a Minor Development and the site is not located within the SuDS Consultation Area. The development is unlikely to significantly increase flood risk and therefore recommend an informative

Public Comments

Kinlet Parish Council – 14 May 2024

It was a majority decision to recommend this application for approval.

The site notice was displayed on 3 May 2024 and it expired on 24 May 2024

5.0 THE MAIN ISSUES

Principle of development
Siting, scale, design of structure and visual impact
Residential Amenity
Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Alterations and extensions to dwellings are acceptable in principle providing they meet the relevant criteria of Shropshire Adopted Core Strategy Policy CS6: Sustainable Design and Development Principles; CS17 Environment Networks; CS18 Sustainable Water Management. As for the SAMDev both Policy MD2 and MD12 are relevant here and deal with Sustainable Development and the Natural Environment respectively

6.2 Siting, scale, design of structure and visual impact

6.2.1 There is no in principle objection to the proposed change of use of the land from a former cattery to additional domestic garden or the erection of a suitably sized outbuilding for the applicant's own domestic use.

6.2.2 However, there is a requirement that such ancillary outbuildings should be read as being subordinate to and in scale with the existing dwelling. In this case the chalet bungalow appears to have a footprint of some 184m², whereas what is now proposed would have a floor area of some 178m² which is almost the same size as the footprint of the dwelling and is considered to be excessive.

6.2.3 Officers also have concerns about the overall size of this building compared to the existing bungalow which, due to its design and scale, has the appearance of a contemporary dwelling. Furthermore, given that there is an existing vehicular access into this part of the property, there is concern that this building could be separated off from the bungalow at a later date to create a separate curtilage. Given that this property is sited in a rural area, new open market dwellings would be contrary to policy.

6.2.4 In terms of the visual impact, this new outbuilding would be much more visible than the cattery building as it would be higher and extend further down the garden on a level platform and this would make it more visible from the highway as it has a

shared access with Fairview Lodge to the north and also from the public footpath to the east when looking west towards Meaton Lane.

- 6.2.5 In assessing the site plan, it is noted that there are already a number of different outbuildings on this property, but no details have been provided stating what they are all used for and whether some of them could be removed in order to reduce the impact of the new building in this rural location.

6.3 Residential Amenity

- 6.3.1 Fairview Lodge next door is a mobile home that lies to the north of the current cattery building behind an existing fence. Although the mobile home is set back from Meaton Lane, there is an expanse of amenity space behind part of the cattery building.
- 6.3.2 The proposal to site both a larger and higher building (compared to the current cattery building) to the south of this mobile home, is likely to result in some loss of amenity to the occupiers of the mobile home by way of loss of light and overshadowing, especially as the new outbuilding would be sited on a levelled site compared to the existing building and would have a higher roofline, extending above the fence line by some 180mm along its entire length.
- 6.3.4 It is therefore considered that this proposal would result in loss of amenity to this neighbouring property and be contrary to policy.

6.4 Ecology

- 6.4.1 The Council's Ecologist has considered the submitted information and takes the view that this proposal meets the trigger point for requiring a bat survey, prior to determination and secondly that Biodiversity Net Gain (BNG) requirements are also required here.
- 6.4.2 As a bat survey has not been submitted, it is not possible to conclude that the proposal will not cause an offence under the 2017 Conservation of Habitats and Species Regulations (as amended).
- 6.4.3 In respect of the Biodiversity Net Gain requirements, this application should also be accompanied by information demonstrating biodiversity losses and gains, utilising the DEFRA Statutory Biodiversity Metric/Small Sites Metric and with accompanying documentation in line with BS 8683:2021 'Process for designing and implementing Biodiversity Net Gain' and good practice guidance i.e. 'Biodiversity Net Gain ' Good Practice Principles for development', CIEEM, 2016. The development must demonstrate at least a 10% net gain in biodiversity.
- 6.4.4 Furthermore, no BNG details has been submitted either and therefore insufficient information has been provided to assess the BNG impacts on this proposal having regard to requirement to provide at least 10% net gain in biodiversity as set out in the above legislation.

7.0 CONCLUSION

- 7.1 The proposed domestic outbuilding by way of its scale and size is not subordinate to the existing dwelling as it would be of a size that is almost commensurate with the footprint of the chalet bungalow which would result in harm to the character and appearance of this rural area contrary to the requirements of Policies CS6 and MD2 of the local development plan policies and the NPPF.
- 7.2 In addition, the proposed design includes the provision of extensive floor-to-ceiling glazing and decking which would result in the building having an appearance tantamount to the erection of a new dwelling in the open countryside which would be contrary to both national and local planning policies CS5, MD7a and the NPPF.
- 7.3 The proposed outbuilding would also have a straight roof profile that is unlike the existing cattery building where the ground slopes to the east and therefore concern is raised that because this proposed new building would be higher than the cattery building, that this would result in the potential for overshadowing and cause loss of light to the neighbour's amenities given that some of the ground here would need to be re-profiled to level the site and that the neighbouring property is to the north of the application site. Therefore, insufficient information has been provided to fully assess these level changes and how the proposed development would relate to the neighbour's party boundary as such the proposal is considered to be contrary to the local development plan policies CS6, MD2 and the NPPF.
- 7.5 Insufficient ecological information has been provided to support this scheme given that this proposal would meet the trigger point for a bat survey and secondly there is also a requirement to demonstrate biodiversity losses and gains including the provision for a 10% net gain for the development; as required by the local development plan policies and NPPF and utilising the DEFRA Statutory Biodiversity Metric/Small Sites Metric recent BS 8683:2021 'Process for designing and implementing Biodiversity Net Gain' and good practice guidance i.e. 'Biodiversity Net Gain ' Good Practice Principles for development', CIEEM, 2016.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although

they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD2 - Sustainable Design

MD12 - Natural Environment

RELEVANT PLANNING HISTORY:

BR/75/0186 The erection of a brick skin and provision of a pitched tiled roof GRANT 5th June 1975

BR/77/0036 The erection of a replacement private garage and domestic store GRANT 19th March 1977

22/03453/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the erection of a replacement barn GRANT 21st November 2022

23/02531/FUL Erection of a fodder Barn GRANT 28th July 2023

24/01186/FUL Change of use of land to domestic, demolition of existing cattery building and erection of a domestic outbuilding NPW 19th April 2024

24/01556/FUL Change of use of land to domestic, demolition of existing cattery building and erection of a domestic outbuilding PDE

BR/97/0484 ERECTION OF A CAT BOARDING UNIT GRANT 9th September 1997

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SC5H19TDH7R00>

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

AGENDA ITEM

Southern Planning Committee - 25th June 2024

Catsley View

Local Member

Cllr Gwilym Butler
Cllr Simon Harris

AGENDA ITEM

Southern Planning Committee - 25th June 2024

Catsley View

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Agenda Item 8

SCHEDULE OF APPEALS AS AT COMMITTEE 25th June 2024

LPA reference	23/05505/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr John Corbo
Proposal	Partial demolition of the existing retail convenience store and construction of extensions, revision to car parking facilities, provision of four electric vehicle charging points, installation of solar panels on extension roof and change of use of the ground floor of 17 St Marys Road to a coffee shop (re-submission)
Location	Wheatland Garage Bridgnorth Road And 17 St Marys Road Much Wenlock Shropshire TF13 6AG
Date of appeal	13/05.2024
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	23/04354/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	L Parkin/Apley Estate
Proposal	Erection of single storey extension to side/rear elevation to include some demolition
Location	Foxgloves Allscott Bridgnorth Shropshire WV15 5JU
Date of appeal	14.05.2024
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/05138/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr P Whiteman
Proposal	Application under Section 73A of the Town and Country Planning Act 1990 for the change of use of agricultural land to form new residential access and parking (Part Retrospective)
Location	Paper Mill 121 Alveley Bridgnorth Shropshire WV15 6HE
Date of appeal	08.02.2024
Appeal method	Written Representations
Date site visit	
Date of appeal decision	15.05.2024
Costs awarded	
Appeal decision	Dismissed

LPA reference	22/05379/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	R And P Wood
Proposal	Erection of a detached single storey building containing 3No. starter units for employment (resubmission)
Location	Cosford Business Park Long Lane Neachley Shifnal Shropshire
Date of appeal	25.01.2024
Appeal method	Written Representations
Date site visit	
Date of appeal decision	17.05.2024
Costs awarded	
Appeal decision	Dismissed

LPA reference	23/00912/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs Sandra Whitmore
Proposal	Erection of replacement dwelling (with retention of original building) and installation of package treatment plant
Location	Lyndas Field Cleobury Mortimer Shropshire DY14 9DX
Date of appeal	14.12.2023
Appeal method	Written Representations
Date site visit	10.04.2024
Date of appeal decision	24.05.2024
Costs awarded	Part Costs Awarded
Appeal decision	Allowed

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Appeal Decision

Site visit made on 9 April 2024

by **L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 May 2024

Appeal Ref: APP/L3245/W/23/3329361

Paper Mill, 121, Blunder Bridge Junction with A442 to Alum Bridge Junction, Birdsgreen, Alveley, Shropshire WV15 6HE

- 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 P Whiteman against the decision of Shropshire Council.
 - The application Ref is 22/05138/FUL.
 - The development proposed is change of use of agricultural land to form new residential access and parking.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the proposed development from the Application Form. The Council amended the description to make reference to the proposal being part retrospective, but that is not in itself development.
3. Nevertheless, I was able to see from my site visit that the access track and parking area have been completed. I noted that the appeal site currently has brick piers and walls at the proposed access point, along with a six bar wooden gate. Amended plans were submitted during the application which substituted the brick piers and walls for wooden gate posts, a 1.2m high post and rail fence, and for a solid wooden gate. I have determined the appeal on this basis.
4. Subsequent to the Council issuing its decision, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal. Therefore, having considered the parties' respective cases and the nature of the revisions, in light of the principles of natural justice it has not been necessary to seek the views of the main parties on this matter. I have referred to the updated paragraph numbers.

Main Issues

5. The main issues are:
 - 1) whether the development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - 2) the effect of the development on the openness of the Green Belt;

- 3) the effect of the development on the character and appearance of the area; and,
- 4) whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

6. Policy CS5 of the Shropshire Core Strategy (2011) (CS) states that new development will be strictly controlled in accordance with national planning policies protecting the Green Belt. Policy MD6 of the Shropshire Site Allocation and Management Development Plan (2015) (SAMDev) stipulates that development proposed in the Green Belt must be able to demonstrate that it does not conflict with the purposes of the Green Belt.
7. The Framework indicates that the construction of new buildings in the Green Belt, subject to a number of exceptions, should be regarded as inappropriate development (paragraph 154). It sets out that engineering operations are not inappropriate development in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it (paragraph 155). One of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment (paragraph 143).
8. The access track and tarmacked entrance, and hardcore/stone parking area can be considered as engineering operations and potentially fall within the paragraph 155(b) exception.
9. The access track has been measured as approximately 203m long and 4m wide and runs through undeveloped agricultural land. However, it is of a narrow width and is well screened, as it is sited along the edge of the field which is currently bounded by mature trees, hedgerows and foliage.
10. The hardcore parking area is located close to Paper Mill Cottage and, serving only one dwelling, it does not have an excessive number of vehicles parked upon it.
11. Notwithstanding the above, both the access track and hardcore/stone parking area represent an expansion of development into agricultural land. They therefore fail to safeguard the countryside from encroachment and so constitute inappropriate development in the Green Belt.
12. The Town and Country Planning Act 1990 refers to buildings as including any structure or erection. Given the height of the fence and the span of the gates, this element of the development should be considered as a building. It does not fall within any of the exceptions listed in paragraph 154 of the Framework and, as such, would be inappropriate development in the Green Belt.
13. Accordingly, the separate aspects of the appeal scheme are or would be inappropriate development in the Green Belt in conflict with the Framework, Policy CS5 of the CS and Policy MD6 of the SAMDev. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special

circumstances. In accordance with paragraph 153 of the Framework, substantial weight is given to any harm to the Green Belt.

The openness of the Green Belt

14. The Framework identifies that a fundamental aim of Green Belt policy is to keep land permanently open, and that the essential characteristics of Green Belts are their openness and permanence.
15. Openness can be perceived both spatially and visually. The hard core/ stone parking area is fairly sizeable. Although it has been developed at ground surface level, it is not well screened. By occupying space that was previously undeveloped open land, it reduces the spatial openness of the appeal site. Although the number of vehicles that could be parked would not be excessive, the introduction of vehicles will have a visual impact on the Green Belt, albeit very localised. I therefore find that the parking area does not preserve the openness of the Green Belt.
16. The proposed fence would be 1.2m high, and would be of an open, post and rail design rather than close-boarded. The gate, however, would be of a more solid, wooden design, with no gaps allowing views through it. The introduction of man-made built form in regard to the fencing, and the introduction of a larger and more solid gate which would be of greater volume and a more solid, physical barrier than that currently in place, would have a harmful impact on visual and spatial openness.
17. There is no significant visibility of the access track due to its low-key design at ground surface level and the screening provided by the boundary foliage, which helps to soften its visual impact. Views of the track from the lightly trafficked public highway, to passing motorists and pedestrians, are likely to be in the form of fleeting glimpses. This includes the presence of vehicles utilising the access to and from the dwelling. Whilst the access track occupies space that was previously undeveloped, due to its narrow width and low-level position, the volumetric effect on openness would be neutral. I am satisfied that the access track therefore preserves the openness of the Green Belt.
18. Despite my findings in relation to the access track, the parking area has, and the proposed fence and gates would have a harmful effect on the spatial and visual openness of the Green Belt, albeit this would be relatively localised.

Character and Appearance

19. The appeal site lies within an attractive setting, accessed off a country lane which for large sections is tightly enclosed by vegetation and hedgerows that contribute to the rural character of the area. Whilst the prevailing land use surrounding the appeal site is mostly agricultural, there are a small number of residential properties close by.
20. The proposed wooden gates, set behind a tarmacked entrance, would have a more typically suburban appearance. Furthermore, the visual prominence of these suburban features would be increased by the removal of a section of established hedgerow to facilitate safe access by creating visibility splays at the entrance point. However, new hedgerow planting, while taking some time to become established, would in time help to mitigate the visual impact of the proposal.

21. Furthermore, I noted from my site visit that there a number of other properties in proximity to the appeal site which had more typically suburban features. One of the dwellings close to the entrance to the appeal site, for example, has a noticeably large modern conservatory. A number of neighbouring residential properties had suburban style entrances and boundary treatments, with walled piers and gate posts, large gates and tarmacked entrances to their drives. Whilst the proposed gate and tarmacked entrance would have a more suburban appearance than the hedgerow and access gate that were originally in place, in the context of neighbouring entrances, the proposed gates and tarmacked entrance would not appear as overly incongruous or incompatible with the surrounding pattern of development or boundary treatments.
22. I therefore consider that the proposed development would not harm the character or appearance of the area. As such, in the context of this main issue, the proposal would accord with Policies CS5, CS6 and CS17 of the CS, insofar as it maintains the character of the countryside and conserves the natural environment taking into account the local context and character. It would also be in accordance with SAMDev Policies MD2, MD6 and MD12 as it responds to the layout of existing development and the streetscape and respects local character. Furthermore, it would accord with Section 15 of the Framework, which seeks to conserve and enhance the natural environment.

Other considerations

23. Permitted development rights are available for the erection of gates and fences under Class A Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
24. The permitted development rights allow the erection of fences and gates up to 2.0m height, or 1.0m where adjacent to the highway. The proposed fence and gates would be between these two measures.
25. There is no definition of the word 'adjacent' within the GPDO but case law referred to in the evidence before me shows that the meaning of 'adjacent' in the context of the GPDO does not equate to contiguous or abutting. The thrust of case law is that gates and fences can be set back from a highway but still be 'adjacent' to it, as a matter of fact and degree providing that the enclosure is clearly to define the boundary of the property concerned from the highway and, moreover, is perceived to do so.
26. The proposed fence and gate would indicate an entrance to the appellant's property, and, as such, would clearly define the boundary between the edge of the highway and the appellant's land. Hence, the fence would be adjacent to the highway. The height of the proposed fence and gate would be over 1m and therefore would not fall under permitted development rights. Permitted development rights would allow a gate and fence up to 1m high adjacent to the highway, which would be less obtrusive than that proposed. Consequently, I give the appellant's suggested fallback position no weight.
27. Access to the site was previously possible from a byway open to all traffic (BOAT) off the A442 which leads to a self-contained accommodation annex which is ancillary to Paper Mill Cottage. Access from this point to Paper Mill Cottage was via a bridge across a stream.

28. The appellant states that the bridge was washed away during a period of heavy rainfall and I have no reason to doubt this statement. The bridge was not replaced and there is currently no access to Paper Mill Cottage over the stream or from the A442 entrance. The only access is via that proposed in this appeal.
29. The access track enables vehicular and pedestrian access to the dwelling. This is of much benefit to the amenity, health and well-being of the appellant and his family, allowing them, along with visitors and deliveries, the knowledge that they can safely and easily access their property, which is not possible without it. However, I have been provided with little evidence to indicate that the previous access over the bridge could not be replaced, excluding the new access and parking area, which are inappropriate development in the Green Belt. As such, I give this benefit moderate weight.
30. I acknowledge that there were no objections from neighbours or statutory consultees, but this is not determinative. I also note that the Highway Authority raised no objection to the proposal in contrast to the existing access point. However, planning policy requires developments to be safe and accessible, so this is a neutral matter.

Green Belt Balance and Conclusion

31. I outlined above that substantial weight should be given to any harm to the Green Belt. I have found harm to the Green Belt in terms of its openness and by reason of the proposed development's inappropriateness.
32. The Framework confirms that inappropriate development should not be approved except in very special circumstances. It goes on to confirm that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
33. I have found that there would not be harm to the character and appearance of the area. However, this lack of harm is a neutral factor in this balance.
34. Turning to the other considerations that have been advanced, for the reasons given I have afforded no weight to the suggested fallback position and have given moderate weight to the benefits that the access brings to the appellant and his family.
35. Those other considerations would not clearly outweigh the harm to the Green Belt that I have identified. Therefore, the very special circumstances necessary to justify the development in the Green Belt do not exist. The development would thus conflict with the Green Belt protection aims of the Framework and Policies CS5 of the CS and MD6 of the SAMDev.
36. The proposal conflicts with the development plan and the material considerations do not indicate that the decision should be made other than in accordance with it. Consequently, the appeal is dismissed.

L C Hughes

INSPECTOR

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Appeal Decision

Site visit made on 30 April 2024

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

an Inspector appointed by the Secretary of State

Decision date: 17 May 2024

Appeal Ref: APP/L3245/W/23/3327037

Cosford Business Park, Long Lane, Shifnal, Shropshire TF11 8PJ

- 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 Robert Wood (R & P Wood) against the decision of Shropshire Council.
 - The application Ref is 22/05379/FUL.
 - The development proposed is for the erection of a detached single dwelling building containing three starter units for employment.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is located within the Green Belt and therefore the main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the living conditions of neighbouring occupiers;
 - The effect of the proposal on nearby designated and non-designated heritage assets; and,
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

3. Paragraph 152 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

4. Subject to a number of exceptions, as listed in Paragraphs 154 and 155, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions include the limited infilling of previously developed land where this would not have a greater impact on the openness of the Green Belt than the existing development. Policy CS5 of the Adopted Core Strategy (March 2011, the ACS) and Policy MD6 of the Site Allocations and Management of Development Plan (December 2015, the SAMD) primarily rely, in so far as they are relevant to the matters of the appeal before me, on the exceptions set out within the Framework. Where ACS Policy CS5 goes on to support small-scale economic development, this is subject to the Green Belt requirements of the Framework.
5. The site contains a cluster of buildings formed of one group and one linear row. These, along with their associated parking and vehicular routes take up a great portion of the appeal site. The proposed buildings would be between the development within the appeal site and a dwelling adjacent to the site, Linden House. As the site is within the business park, and sited closely to development on two sides, I consider the proposal would comprise infilling on previously developed land. Whilst complying with the first part of the exception, I must also consider whether the proposal would have a greater impact on the openness of the Green Belt.
6. The area of the appeal site proposed for the siting of the scheme is currently an open area of grass that wraps around the rear and one side of the business park. By way of the lack of any built development across this portion, it contributes to the openness of the Green Belt. This is primarily through the area being physically open, as views from outside the site are largely screened by the mature planting and buildings on and around the site.
7. The proposal includes the provision of one new building containing three commercial units and three smaller buildings serving as bin, bike and e-scooter stores. These would all be located on the area of grass. It does not appear from the information before me that the associated areas of hardstanding would be enlarged.
8. The proposal would, by way of it siting over an open area, and the scale of the area that would be developed, result in a loss of openness and encroachment into the countryside. This would be primarily related to the physical presence of the buildings rather than a visual appreciation of openness for the reasons outlined above. However, the presence of the buildings would still be visible within the site and, although to a more limited degree, the surrounding area. Consequently, I consider that there would also be a very modest loss of visual openness.
9. Overall, in light of the above I find the proposal would result in a greater impact on the openness of the Green Belt than the existing development. Therefore, whilst the proposal would be infilling, it would nevertheless be inappropriate development.
10. I recognise the scale of the proposal in relation to the Green Belt as whole, as such I find that the harm to its openness would be more limited. However, the Framework, under Paragraph 153, is clear that any harm to the Green Belt should be given substantial weight.

11. By harming the openness of the Green Belt, the proposal would be inappropriate development and conflict with ACS Policy CS5 and SAMD Policy MD6 as outlined above, as well as Section 13 of the Framework, including Paragraphs 143 and 153 as noted above.
12. Although I am mindful that SAMD Policy MD6 does have some support for development related to RAF Cosford and the museum, the appeal site is not part of either of these locations and has not formed part of the RAF site for some considerable time. This part of Policy MD6 has not, therefore, been determinative.

Living Conditions

13. As noted above, adjoining the site is Linden House. I understand from the submissions before me that it was formerly in the ownership of the appellant but is now under separate ownership. The dwelling is modestly set back from the shared boundary with the appeal site and there are no windows that face over it. However, the dwelling's garden does immediately adjoin the appeal site and would be to the rear of the proposed commercial units, close to the bike and scooter stores. I understand that the site is currently covered by Class E uses and that the proposed units would also be covered by this class.
14. I have not been provided with a site-specific noise assessment identifying the existing noise levels generated on and around the site, or the levels experienced from the nearby dwelling.
15. The appellant has submitted extracts from a noise assessment associated with a proposed residential development to the side of the appeal site. The extracts relate primarily to Monitoring location 1 (ML1). This was the closest monitoring point to the appeal site, but its exact location, and distance, in relation to the appeal site is not clear. I cannot, therefore, be certain that the relationship between ML1 and the appeal site, and between the neighbouring dwelling with the appeal site are comparable. Likewise, as I have only been provided with an extract, I cannot be confident that it accurately reflects the full findings.
16. My site visit was carried out on a weekday during the typical working hours. Whilst my visit can only provide a snapshot in time, lacking any substantive evidence to the contrary I consider that the level of noise I witnessed was typical. The surrounding area was generally quiet but significant noise levels, in the form of music, were being generated from the gym. This noise was audible from the shared boundary with Linden House, and would likely be audible from the dwelling too.
17. I am mindful of the proximity of Linden House to RAF Cosford and that this may cause periods of noise during the take-off or landing of aircraft. However, from information before me I do not know when this occurs, whether it is frequent and if it would be disruptive to the living conditions of those at Linden House.
18. I cannot be certain what types of businesses would occupy the three proposed units, although I note the appellant has suggested an extension to the gym and the provision of dog training facilities. These, and similar uses, could both generate significant noise levels. Given the proposed units' close proximity to Linden House, I find that any noise levels similar to that already stemming from the business park would be disruptive and detrimental to the living

conditions of the occupiers at Linden House. From the information before me, I cannot be certain that the noise generated at the proposed units would be masked by the existing background noise levels from the business park or airfield.

19. I note the suggestion of a condition restricting the hours of operation within the new building. However, this would not be sufficient to protect the living conditions of the occupiers at Linden House during the day.
20. Although the storing and removal of bikes and e-scooters from their respective stores may result in some degree of noise, this would largely stem from the opening and shutting of the store's door, the movement of the vehicles and the use of locks. These actions would not, either cumulatively or alone, be significant sources of noise and would not be detrimental to the living conditions of the neighbouring occupiers.
21. Nevertheless, without the submission of suitable noise level information I cannot be confident that the appeal proposal would not cause an unacceptable level of noise to the detriment of the living conditions of the neighbouring occupiers at Linden House. The proposal would therefore conflict with ACS Policy CS6 which seeks to safeguard health, wellbeing and residential amenity.

Heritage Assets

22. Three heritage assets have been identified by the Council as potentially being affected by the proposed development. These are Neach Hill and Fulton Block, both Grade II Listed Buildings, and Kilsall Farm, a non-designated heritage asset. The Council's concerns primarily stem from the lack of a heritage impact assessment submitted by the appellant. As part of their appeal submissions the appellant has provided a plan identifying the three heritage assets and their relationship to the appeal site. I have not, however, been provided with the full details of each building.
23. Whilst I have only been provided with very limited information on these heritage assets, it is sufficient to assess the relationship between the site and these assets. They are at various distances from the proposed building, the furthest being Neach Hill whilst the closest is Fulton Block. Significant screening, in the form of mature trees, hedgerows and buildings on and off site, block intervisibility between the proposal and all the heritage assets. In all, I consider the appeal site to be visually contained, and I note that the Council's Historic Environment Officer found similarly that the site is enclosed.
24. I am mindful that vegetation can easily die, be cut back, or be removed. Should this occur, it may reduce the level of screening afforded to the site. However, given the scale of vegetation surrounding the site, I find it unlikely that this would occur to such an extent as to afford intervisibility. The proposed building is comparable to the existing buildings in terms of design, appearance and siting. Therefore, even if it were possible to see the building in relation to the heritage assets, it would read as part of the existing business park.
25. In all, the proposal would have a neutral impact on the settings of the nearby designated and non-designated heritage assets. It would therefore comply with ACS Policies CS6 and CS17 and SAMD Policies MD2 and MD13 which collectively, and amongst other matters, seek to protect and conserve the historic environment and the setting and significance of heritage assets. The

proposal would also comply with Section 16 of the Framework, especially Paragraphs 205 to 206 which similarly seek to conserve and enhance the historic environment with particular regard to designated and non-designated assets.

Other Considerations

26. Although landscaping could result in some improvements to the appearance of the site, I have not been provided with any detailed information on what landscaping would be provided. Moreover, the proposal would result in the reduction of green space. As such, I cannot be certain that any landscaping resulting from the proposal would result in a net gain. I am also mindful that it has not been demonstrated that the proposal is necessary in order to secure any additional landscaping. I consequently afford this matter only very modest weight.
27. It is likely that the building materials proposed and the use of green energy generation on site would collectively support the business park in reducing their energy use and carbon emissions. This would be a public benefit in terms of tackling climate change. However, it has again not been demonstrated that such a reduction could not be achieved without the proposal and so I consider this matter to have modest weight.
28. By fact of it being for the expansion of a business park, the proposal would result in economic benefits through job creation and supporting smaller businesses. I am mindful of its rural location and the Council's support for rural economic development. However, the scheme is modest in scale providing only three new units. I therefore find that the proposed economic benefits would be moderate.
29. The appellant has made reference to the Council's plans to use 39 hectares of undeveloped land to meet the needs of businesses. Although the proposal may meet some of the Council's identified needs, given its scale this would only be very limited. Moreover, I have not been provided with details of this land's identification and so I cannot be certain that the type of units would be comparable or meet the same needs. Lacking demonstrable evidence, this matter has not been determinative in my considerations.
30. My attention has been drawn to pre-application advice¹ provided by the Council relating to the conversion of Neach Hill to a hotel and spa served by a new 48 room building and economically supported by the provision of 48 new dwellings. I have not been provided with the full details and facts of this pre-application submission. However, it is clear that the scheme is significantly different to that before me with regards to nature and scale. It is also clear that the Council had concerns regarding the impact of the proposal on the Green Belt and whether it would be deemed to not be inappropriate development in the Green Belt. 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 at the time. Given the above, this example has not been determinative in my considerations of the appeal scheme before me.

¹ Council's reference: PREAPP/22/00037

Green Belt Conclusion

31. The proposal would amount to inappropriate development in the Green Belt. Further harm would also occur, through the impact on the living conditions of neighbouring occupiers. These matters carry substantial weight. I have attached, at most, moderate weight to the considerations in support of the proposal. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

Conclusion

32. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR



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: 24 May 2024

Appeal Ref: APP/L3245/W/23/3330609

Lyndas Field, Cleobury Mortimer, Shropshire DY14 9DX

- 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 Ms Sandra Whitmore against the decision of Shropshire Council.
 - The application Ref is 23/00912/FUL.
 - The development proposed is a replacement dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling at Lyndas Field, Cleobury Mortimer, Shropshire DY14 9DX in accordance with the terms of the application, Ref 23/00912/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Ms Sandra Whitmore against Shropshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. However, the policies of the Framework that are material to this case have not fundamentally changed. Therefore, I have proceeded to determine the appeal having regard to the revised Framework.
4. The site location as set out above has been taken from the Council's decision notice rather than the planning application form as this concisely identifies the location of the proposed development.
5. The change of use of the existing dwelling falls outside the scope of this appeal. I have therefore limited my considerations to the proposal before me, which relates solely to the erection of a replacement dwelling.
6. A signed Unilateral Undertaking (UU) dated 25 October 2023 accompanies the appeal. I shall return to the UU later in this decision.

Main Issues

7. The main issues in this appeal are:
 - whether the appeal site would provide a suitable location for housing having regard to its position in the countryside; and,

- the effect of the appeal proposal on the character and appearance of the area.

Reasons

Suitability of the site for housing

8. Policy MD7a of the Shropshire Council Site Allocations and Management of Development Plan 2015 (SAMDev) sets out how the Council will manage new housing in the countryside. As a rural housing exception, criterion 3 of policy MD7a permits the replacement of existing dwellings in the countryside where the dwelling to be replaced is a permanent structure with an established continuing residential use. The policy goes on to explain that replacement dwellings should not be materially larger and must occupy the same footprint as the existing dwelling unless it can be demonstrated why this should not be the case. Based on the evidence, there seems to be no debate regarding the existing dwelling being a permanent structure with an established, continuing residential use or that the replacement would be materially larger than the building to be replaced.
9. The replacement dwelling would not occupy the footprint of the existing dwelling. Instead, it would be located on an area of undeveloped ground to the east of the main building complex. This would allow the existing building to be retained in its entirety and used in connection with the established breeding business and agricultural holding subject to planning permission. A condition requiring the cessation of the residential use of the existing dwelling prior to the first occupation of the replacement dwelling would provide a suitable mechanism to ensure that the appeal proposal would not result in new, unjustified residential development in the countryside.
10. For these reasons, I find that the appeal site would provide a suitable site for housing having regard to its position in the countryside. It would therefore comply with Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy (the Core Strategy) together with Policy MD7a of the SAMDev. Amongst other aspects, these policies seek to strictly control development in the countryside to ensure that new housing development is strategically located. It would also be consistent with the housing objectives set out in the Shropshire Housing Supplementary Planning Document and the provisions of the Framework where they seek to ensure the delivery of sustainable housing.

Character and appearance

11. The appeal site is occupied by a former army barracks hut and outbuildings. The immediate area is that of a rural landscape characterised by open fields separated by hedgerows and areas of woodland, interspersed with sporadic development including established farm complexes. While there is no evidence to suggest that the appeal site is subject to any landscape designation, its undeveloped nature positively contributes to the rural character and appearance of the locality.
12. The proposal would extend into a neighbouring field and would introduce built form onto land which is otherwise devoid of buildings. However, the proposed dwelling would be both physically and visually related to the existing buildings at the appeal site. Therefore, whilst detached, it would not

appear isolated or conspicuous in the context of its surroundings. The proposal would be agricultural in appearance and would therefore relate well to its rural surroundings whilst its modest scale and relatively low profile means that it would not be a dominant addition to the landscape.

13. I saw at my site visit that the site is visually contained such that visibility of the proposal would be relatively localised. Although the dwelling would be visible to users of the nearby public right of way, it would be viewed in connection with the existing buildings at the site and therefore would read as part of the building complex. Further, whilst there may be glimpses of the building from the road when approaching from the east, these views would be heavily filtered by the existing roadside vegetation. Accordingly, the building would not be an unduly prominent or visually obtrusive form of development.
14. Accordingly, the appeal development would not harm the character and appearance of the area. It would therefore accord with Policies CS5, CS6 and CS17 of the Core Strategy together with Policies MD2 and MD12 of the SAMDev. Collectively, and amongst other things, these policies seek to ensure that proposals maintain and enhance the countryside vitality and character and contribute to local distinctiveness. It would also be consistent with the design objectives of the Framework where they seek to safeguard the intrinsic character and beauty of the countryside.
15. Policy MD7a of the SAMDev relates to the management of housing in the countryside. My attention has not been drawn to any wording therein which relates to character and appearance and thus it is not determinative to this main issue.

Other Matters

16. The Council's delegated report sets out that the appeal site is located within a Development High Risk Area as defined by the Coal Authority. The report¹ submitted by the appellant confirms that it is unlikely that the identified coal related features would impact on the stability of the appeal site, and I have no reason to doubt the findings in this respect.
17. The submitted UU makes provision for the cessation of the residential use of the existing dwelling upon first occupation of the replacement dwelling. In addition, it restricts the use of the existing building thereafter. Paragraph 55 of the Framework sets out that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Even if it would be equally possible to overcome an objection via condition or obligation, the Planning Practice Guidance (PPG) states that a condition should be used.
18. The existing and proposed dwellings are identified within the application site boundary. Therefore, in this case, the use of the existing dwelling could be controlled by condition. Therefore, having regard to the tests set out in the CIL Regulations 2010 (as amended) and the Framework, this obligation is not necessary to make the development acceptable. As such, I do not consider that it would be lawful to take it into account as a reason for granting planning permission.

¹ CON29M Coal Mining Report dated 13 September 2023

19. The second obligation sets out that the owner will commission a builder to build the replacement dwelling for her own occupation and that the owner will occupy the dwelling when built in the first instance for a period of 3 years from the date of completion. However, as a replacement dwelling, there is no policy justification for this. Therefore, the obligation in this regard is not necessary to make the development acceptable in planning terms or directly related to the development. Hence this obligation too would fail to meet the statutory tests, and, in my view, it would not be lawful to take it into account as a reason for granting planning permission.

Conditions

20. I have had regard to the draft planning conditions that have been suggested by the Council and I have considered them against the tests in the Framework and the advice in the PPG. I have made such amendments as necessary to comply with those documents and for clarity and consistency.

21. In addition to the standard time limit condition, and in the interests of certainty, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. To ensure that flood risk is appropriately managed, a surface water drainage strategy is required. A Mine Gas Risk Assessment is required to ensure that potential risks are suitably managed and public health is safeguarded.

22. To safeguard protected species and their habitats, it is necessary to condition adherence to the Reasonable Avoidance Measures set out in the Ecological Survey. To promote the biodiversity of the site, I have imposed a condition requiring the implementation of biodiversity enhancement measures. A condition requiring details of external lighting is imposed to minimise effects on biodiversity and wildlife. In the interests of the character and appearance of the area, a condition securing a scheme of landscaping is necessary. For the same reason, and notwithstanding the submitted plans, it is necessary to secure samples of the external materials. In the interests of highway safety, it is necessary to condition visibility splays.

23. To prevent the establishment of an unjustified dwelling in the countryside, it is necessary to impose a condition requiring the cessation of residential use of the existing dwelling upon first occupation of the replacement development. However, the use of the existing building in connection with the dog breeding business would require planning permission. As the change of use falls outside the scope of this appeal, it would not be appropriate to impose a condition requiring that the building be retained for such purposes.

Conclusion

24. For the reasons given above the appeal is allowed.

H Wilkinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan
 - Proposed Block Plan
 - Proposed Floor Plan & Elevations
 - Proposed Plan Showing Visibility Splays
 - Site Drainage Plan – dated 2 June 2023
- 3) No development shall take place until a scheme of surface water drainage including a maintenance strategy has been submitted to and approved in writing by the local planning authority. The approved drainage measures shall thereafter be fully installed as approved prior to the first occupation of the development hereby approved and maintained as such thereafter.
- 4) No development (including site clearance) shall commence 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 shall thereafter be submitted to and approved in writing by the local planning authority before development commences.
- 5) 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. The works detailed as being necessary to make safe the mine gases shall be carried out in accordance with the approved Remediation Strategy.

If 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 in accordance with the requirements of the Environment Agency guidance Land Contamination: Risk Management (LCRM; 2020), shall be submitted to and approved in writing by the local planning authority. The remediation measures shall thereafter be implemented in accordance with the approved remediation scheme.

Following completion of the measures identified in the approved Remediation Strategy, and prior to any development taking place a Verification Report shall be submitted to and approved in writing by the local planning authority. This shall demonstrate 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.

- 6) No development shall commence on site (including site clearance) until a scheme of hard and soft landscaping, including an implementation programme and management plan has been submitted to and approved in writing by the local planning authority. The landscaping works shall thereafter be implemented and managed in accordance with the approved details.
- 7) No development shall take place above slab level until samples of the external materials/finishes have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 8) Upon first occupation of the dwelling hereby approved, the residential use of the existing dwelling as identified on Drawing no. PL1 (Proposed Block Plan) shall cease. At no time thereafter shall the building be used for residential purposes.
- 9) Prior to the first occupation of the development, the access and visibility splays shall be laid out in accordance with Drawing No 1016 PL1 (Proposed Plan Showing Visibility Splays). The visibility splays shall thereafter be retained for their intended purposes for the lifetime of the development.
- 10) Prior to the first occupation of the development, a minimum of one external Woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species and a minimum of one artificial birds nest, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific) or sparrows (32mm hole, terrace design) shall be erected in suitable locations on site, allowing a clear flight path and where they will be unaffected by artificial lighting. These features shall thereafter be maintained and retained for the lifetime of the development.
- 11) Details of any external lighting shall be submitted to and approved in writing by the local planning authority prior to first installation. The lighting shall thereafter be installed, maintained, and operated in accordance with the approved details.
- 12) The development hereby permitted shall be undertaken strictly in accordance with the Reasonable Avoidance Measures and Mitigation in respect of Great Crested Newts, as set out in section 5.1.1 of the Great Crested Newt Assessment dated May 2023.

END OF SCHEDULE



Costs 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: 24 May 2024

Costs application in relation to Appeal Ref:

APP/L3245/W/23/3330609 Lyndas Field, Cleobury Mortimer, Shropshire, DY14 9DX

- 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 Ms Sandra Whitmore for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of planning permission for a replacement dwelling.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Council's delegated report sets out that the proposal, by virtue of its encroachment onto previously undeveloped land would not relate to the layout and form of the adjoining land and would visually impact the rural landscape. Whilst the appraisal is somewhat brief, it nevertheless details its case and conclusion, having regard to the relevant development plan policies which seek to maintain and enhance the countryside vitality and character. Whilst I have reached a different finding, there is inevitably a degree of subjectivity in considering this matter. Based on the evidence, I am satisfied that the Council's reasoning clearly sets out clear and unambiguous reasons to refuse planning permission on the grounds of its effect on the character and appearance of the area.
4. The second reason for refusal states that the proposal would be within the open countryside, away from any defined rural settlement and would not fall within any of the exceptions or any of the special circumstances set out within both national and local policy. However, as a rural housing exception, Policy MD7a of the Shropshire Council Site Allocations and Management of Development Plan 2015 permits the replacement of existing dwellings in the countryside. While the existing building is shown to be retained on the submitted plans, it is clear from the description of development and the supporting evidence that the proposal relates to the erection of a replacement dwelling. However, there is no reference made to this exception within the officer's reasoning and the report is silent on the case for a replacement dwelling in the context of this policy.
5. No statement of case has been provided by the Council. In rebutting the cost application, the Council seeks to argue that its approach was not unreasonable

given that there was no suitable mechanism before them to ensure that the use of the existing dwelling cease upon first occupation of the replacement dwelling. There is however no indication within the delegated report that this was considered by the Council in reaching its decision, and it is not clear why this issue could not have been resolved by the imposition of a condition, particularly given that the existing dwelling is included within the application site boundary.

6. Accordingly, in failing to consider the relevant local policy in full, the Council did not exercise their development management responsibility. Refusing planning permission on this basis was therefore unreasonable. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and a partial award of costs is justified in so far as it relates to the second reason for refusal.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Shropshire Council shall pay to Ms Sandra Whitmore, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the second reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Shropshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

H Wilkinson

INSPECTOR