

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

Date: Monday, 9 December 2024

Committee:
Southern Planning Committee

Date: Tuesday, 17 December 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 Socially Distanced Planning Committees including the arrangements for public speaking can be found by clicking on this link:

<https://shropshire.gov.uk/planning/applications/planning-committees>

Tim Collard
Assistant Director – Legal and Governance

Members of the Committee

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

Substitute Members of the Committee

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

Your Committee Officer is:

Tim Ward Committee Officer

Tel: 01743 257713

Email: tim.ward@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 8)

To confirm the minutes of the Southern Planning Committee meeting held on 26 November 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 12.00 pm on Wednesday 11 December 2024

4 Disclosable Pecuniary Interests

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

5 Proposed Residential Development Land To The East Of Derrington Road Ditton Priors Shropshire (24/02828/FUL) (Pages 9 - 40)

Residential development of 44 No. plots consisting of 1, 2, 3 and 4 bed properties including 11 No. affordable dwellings plus associated infrastructure, access, off site footpath, public open space and landscaping.

6 Cleobury Hills, High Street, Cleobury Mortimer, Shropshire, DY14 8DN (24/03787/FUL) (Pages 41 - 58)

Proposed 58 bedroom residential care accommodation, access, amenity space and associated works (Resubmission of 23/03056/FUL)

7 Schedule of Appeals and Appeal Decisions (Pages 59 - 72)

8 Date of the Next Meeting

To note that the next meeting of the Southern Planning Committee will be held at 2.00 pm on Tuesday 28 January 2024

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Committee and Date

Southern Planning Committee

INSERT NEXT MEETING DATE

SOUTHERN PLANNING COMMITTEE

Minutes of the meeting held on 26 November 2024

2.00 - 4.02 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

Councillor David Evans (Chairman)

Councillors Nick Hignett (Vice Chairman), Caroline Bagnall, Andy Boddington, Richard Huffer, Christian Lea, Hilary Luff, Nigel Lumby and Rachel Connolly (Substitute) (substitute for Tony Parsons)

41 Apologies for Absence

Apologies for absence were received from Councillors Tony Parsons (Substitute: Councillor Rachel Connolly), Edward Potter and Robert Tindall (Substitute: Councillor Edward Towers).

42 Minutes

RESOLVED:

That the Minutes of the meeting of the South Planning Committee held on 24th September 2024 be approved as a correct record and signed by the Chairman.

43 Public Question Time

No public questions or petitions were received.

44 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.

45 35 The Caravan Tong Forge Shifnal Shropshire TF11 8QD (24/01534/FUL)

The Consultant Planner introduced the application which was an application for the change of use of land to Gypsy / Traveller Site consisting of four family pitches to include 4No. static caravans, 4No. touring caravans, 4No. amenity blocks with gravel drive and turning area and with reference to the drawings and photographs displayed, he drew Members' attention to the location, design and layout.

The Consultant Planner reminded Members that the proposal had come before Committee in April 2023 and that a 1 year temporary consent had been granted to allow officers to look at alternative sites.

Mr Quinn, (Applicant) spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Several Councillors expressed sympathy for Mr. Quinn's situation, acknowledging the difficulties faced by travellers but emphasised the importance of protecting the Greenbelt, noting that the site was not suitable for the proposed development.

RESOLVED:

That in accordance with the officer recommendation planning permission be refused for the following reason:

The proposal represents an inappropriate form of development which is harmful to the openness of Green Belt and rural landscape character of the countryside. The applicant has claimed that Very Special Circumstances exists based on the best interests of the children that attend Shifnal Primary School and personal circumstances however it is not considered that these material considerations outweigh the harm to the openness of Green Belt resulting from this development. Accordingly, the development is contrary to the Section 13 of NPPF, Policy E of DCLG Planning Policy for Travellers Sites (2015), Policies CS5 and CS12 of the Shropshire Core Strategy (2011) and Policy MD6 of the SAMDev Plan (2015).

46 Proposed Quarry To The East Of Much Wenlock Road, Buildwas, Telford, Shropshire (24/02537/VAR)

The Public Practice Officer Minerals and Waste introduced the application which was an application under Section 73 - application for the variation of condition 12 of planning permission 19/05509/MAW regarding the phased extraction of sand and gravel, associated works and restoration, in order to achieve the dispatch of up to 300,000 tonnes of extracted mineral per calendar year. He advised the meeting that the proposal was to allow the export of minerals by road rather than rail due to the impracticality of rail transport and included measures to mitigate the impact on the local community and environment.

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

Councillor Rachel Jones spoke on behalf of Buildwas Parish Council against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Councillor Claire Wild, local Ward Councillor made a statement in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees in which she suggested additional conditions to mitigate the impact of the proposals.

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

Councillors acknowledged the concerns raised by residents but accepted the necessity of the mineral extraction for the development. They stressed the need for a construction management plan which needed to address the concerns raised by local residents and the Parish Council

RESOLVED

That in accordance with the officer recommendation permission be granted subject to:

- The deletion of condition 3 and an amendment to condition 2, as set out in the Schedule of Additional Letters;
- The additional conditions set out in Appendix 1, upon receipt of the signed unilateral undertaking, with delegation to officers for redrafting conditions attached to original permission.
- A condition to include the requirement for a construction management plan. The plan to take into account the comments of the parish council and local residents.

47 Neach Hill Neachley Lane Neachley Shifnal Shropshire (24/00025/FUL & 24/00026/LBC)

The Senior Planning Officer introduced the application which was an application for planning permission and listed building consent for the conversion of Grade II listed house to 12 bedroom hotel accommodation with associated landscaping and conservation works, erection of 46 bedroom hotel block and pool building to form spa, conversion of Coach House to additional guest accommodation, the repair and reinstatement of walled garden with new orangery and ancillary buildings, and construction of 58 residential units as enabling development to facilitate the conservation works and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location and layout

Tony McAteer (Planning Consultant) spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Members welcomed the preservation of a historic asset but felt that the additional footprint of the hotel and the supporting developments were inappropriate in the green belt. They commented that they felt that there was a lot of information missing from the application

RESOLVED:

Planning Application 24/00025/FUL

That planning permission be **refused** for the following reasons:

1. The development represents inappropriate development in the Green Belt to which significant weight is attached to the harm by definition that this would cause. There would also be a harm to the openness of the Green Belt to which significant weight is also attached. Neach Hill House clearly needs urgent repair works and a beneficial use to secure its long-term future. However, the Statement of Significance, Heritage Impact Assessment (HIA) and Financial Information submitted have not been based on an accurate structural survey of the current condition of the existing buildings and surviving fabric, as such it is not possible to accurately assess and determine the impact the proposals will have upon the significance of the listed buildings. Furthermore the evidence available raises concerns that the level of structural intervention required to facilitate the proposed new use of Neach Hill House and the amount of historic fabric remaining internally is likely to have reached a point where there is more new work than original, which would not represent the appropriate conservation of the listed building but essentially a facsimile reconstruction, particularly in relation to internal fabric, architectural and decorative features, walls, floors and roof structure. The HIA underestimates the impact of the proposed spa and hotel facilities and extensive development within the walled garden, which would harm the setting of the listed buildings (Neach Hill House, Coach House, Walled Garden) and character and legibility of the walled garden respectively and it fails to provide sufficient information, such as a comprehensive photomontage/visual impact assessment to evidence its conclusion in relation to setting impacts, such that the development would represent less than substantial harm. Overall, it is judged that the application has failed to demonstrate a robust case due to the lack of accurate up to date assessment of the listed building, its structural condition and significance, alongside appropriate market testing to define an optimum viable use for the site and that the public benefits outweigh the harm. Consequently, the development conflicts with Shropshire Core Strategy policy CS6, CS17 and Shropshire Council Site Allocations and Management of Development (SAMDev) Plan MD2, MD7a, MD6 and MD13, the Councils SPD Type and Affordability of Housing, Part 13 and 16 of the National Planning Framework and Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990.

2. The development would not, given the capacity constraints and existing conditions of the highway network, be accessible by a choice of travel modes and would lead to an increase in the use of private motor vehicles and is therefore not in a sustainable location. It has also not been demonstrated that safe access for all users can be achieved, nor that the designs of the site accesses reflect national guidance for safety based on the anticipated use. Accordingly, it is considered that the proposals fail to comply with adopted Shropshire Core Strategy policies CS5, CS6, the National Planning Policy Framework and would not assist in meeting the environmental objectives of sustainability.

3. The proposed commercial development has the potential to impact adversely on the residential amenity of the area with respect to noise and disturbance. Despite the assurances put forwards by the applicant the submitted scheme is insufficiently detailed at this stage to be able to make a thorough assessment of the impacts of the commercial development on the amenities of the occupiers of the nearby existing residential properties and to identify any appropriate mitigation measures, and the impact of such measures which may be required to make the development acceptable on the Heritage Assets. As such it is considered that insufficient detailed information has been submitted with this application to be able to conclude that the proposed development would not have an unacceptable impact on the existing residential amenity of the area, contrary to the requirements of adopted Shropshire Core Strategy policy CS6 and Shropshire Council Site Allocations and Management of Development (SAMDev) Plan MD2.

Planning Application 24/00026/LBC

That listed building consent be **refused** for the following reasons:

1. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority pay special regard to the desirability of preserving a listed building or its setting. Neach Hill House clearly needs urgent repair works and a beneficial use to secure its long-term future. However, the Statement of Significance, Heritage Impact Assessment and Financial Information submitted have not been based on an accurate structural survey of the current condition of the existing buildings and surviving fabric, as such it is not possible to accurately assess and determine the impact the proposals will have upon the significance of the listed buildings. Furthermore the evidence available raises concerns that the level of structural intervention required to facilitate the proposed new use of Neach Hill House and the amount of historic fabric remaining internally is likely to have reached a point where there is more new work than original, which would not represent the appropriate conservation of the listed building but essentially a facsimile reconstruction, particularly in relation to internal fabric, architectural and decorative features, walls, floors and roof structure. Overall, it is judged that the requirement to robustly demonstrate the overwhelming public benefits that would outweigh the harm caused to heritage assets has not been met. The application has failed to demonstrate a robust case due to the lack of accurate up to date assessment of the listed building, its structural condition and significance, alongside appropriate market testing to define an optimum viable use for the site. Therefore, a full and robust case to justify harm to the setting of heritage assets. As such the information submitted to support this application is insufficient to demonstrate that the benefits of the development would be sufficient to outweigh the harm to the significance of the heritage assets. As such the scheme conflicts with Shropshire Core Strategy policy CS6, CS17 and Shropshire Council Site Allocations and Management of Development (SAMDev) Plan MD2, MD13, Part 16 of the National Planning Framework and Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990

48 West Bungalow Chirbury Montgomery Shropshire SY15 6BH (23/04608/REM)

The Planning Officer introduced the application which was an application for the Approval of reserved matters (access appearance, landscaping, layout and scale) pursuant to 22/04842/OUT for the demolition of existing bungalow and erection of 2No. dwellings. and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location, design and layout. She reminded Members that they had considered this application at the July meeting and had resolved to defer consideration to allow the applicant to address the concerns member shad with the proposed design and to allow further discussion with the Heritage Team.

Mr Tony Sheppard read a statement on behalf of Mrs Margaret Keonig in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Councillor Tony Sheppard spoke on behalf of Chirbury with Brompton Parish Council in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

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

David Winch, (Applicant), spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Members express concern regarding the overdevelopment of the plot and the adverse impact on the views on the church.

RESOLVED:

That planning permission be refused, contrary to the planning officer's recommendation, for the following reasons:

- The proposed development would have an adverse impact on the views of St Michael's Church, which is a listed heritage asset;
- The proposed development is overbearing on adjacent dwellings;
- The proposed development was out of scale with neighbouring properties.

49 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 26th November 2024 be noted.

50 **Date of the Next Meeting**

RESOLVED:

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 17th December 2024 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

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AGENDA ITEM



Committee and date

Southern Planning Committee

17th December 2024

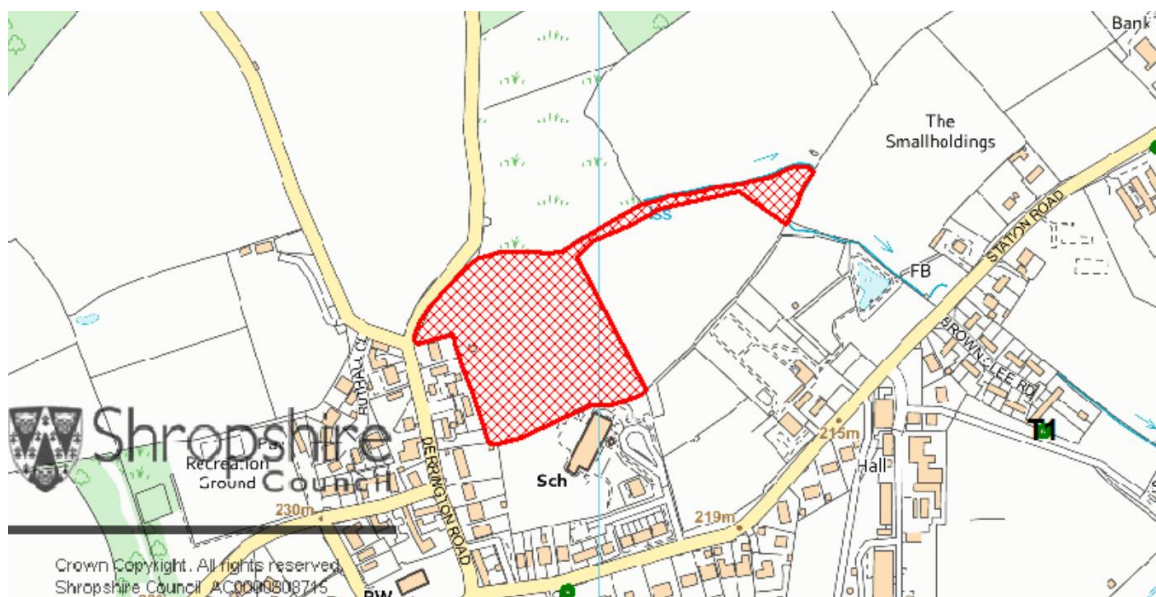
Development Management Report

Responsible Officer: Rachel Robinson, Director of Health Wellbeing and Prevention

Summary of Application

Application Number: 24/02828/FUL	Parish:	Ditton Priors
Proposal: Residential development of 44 No. plots consisting of 1, 2, 3 and 4 bed properties including 11No. affordable dwellings plus associated infrastructure, access, off site footpath, public open space and landscaping.		
Site Address: Proposed Residential Development Land To The East Of Derrington Road Ditton Priors Shropshire		
Applicant: Shropshire Homes Limited		
Case Officer: Lynn Parker	email: lynn.parker@shropshire.gov.uk	

Grid Ref: 360921 - 289396



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Recommendation:- Grant Permission subject to completion of a S106 Agreement to secure the provision of affordable housing in perpetuity, a POS Specification and Maintenance Scheme, Biodiversity Net Gain and the construction and transfer of the School Car Park Facilities, and to the conditions set out in Appendix 1, with delegated powers to officers to negotiate and refine conditions and terms of section 106 agreement

REPORT

1.0 THE PROPOSAL

1.1 This Full Planning Application proposes 44 no. new dwellings together with associated access, footpaths, landscaping, public open space and infrastructure on 2.8 hectares of arable agricultural land to the north side of Ditton Priors and the east side of Derrington Road. The proposed site is allocated for residential development under housing allocation DNP009 - Land off Derrington Road in the Draft Local Plan. The Schedule S3.2(i): Residential Site Allocations: Community Hubs in the Bridgnorth Place Plan Area has a provision guideline of 40 units, the overall residential guideline in S3.2 is around 65 units for Ditton Priors.

1.2 The housing mix for the proposed development over 17 types, is set out as 33 market houses comprising 9x 2 bed, 9x 3 bed and 15x 4+ bed properties, and 11 affordable units comprising 2x 1 bed, 5x 2 bed and 4x 3 bed properties which amounts to a 25% provision. The majority of the proposed dwellings would be 2 storey, however amended plans now include 2 no. bungalows on Plots 19 and 23.

1.3 The proposal further includes the provision of on-site public open space, biodiversity net gain and ecological enhancements. Off-site localised highway works are proposed to improve connectivity between the site and local amenities within Ditton Priors. Five parking spaces for the adjacent Brown Clee C of E Primary School would be constructed and legally transferred to the school

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is located on the north side of Ditton Priors and south west of Bridgnorth. It is accessed from Derrington Road (C4226) which runs in a north/south direction along the site's western boundary, or via the C4223 Station Road to the east and unclassified road to the west. The site is a generally level arable field which slopes gradually down to the east. The north and south boundaries are defined by mature trees and hedgerows and seasonal ditches. Half of the western boundary adjacent to Derrington Road is fairly open and lined with low height native hedging. The remainder of the western boundary is adjacent to existing dwellings at Church Meadow constructed in the late 1980s.

- 2.2 Brown Clee C of E Primary School and its grounds are adjacent to the southern boundary of the site and separated from it by mature landscaping. The arable field extends further east and there is a pocket of agricultural to the south east abutting to the east side of the school drive.
- 2.3 Ditton Priors is a rural village characterised by a mix of older traditional buildings in its core with more recent development radiating outwards from the middle. The centre of the village around St John the Baptist Church and its cemetery is a Conservation Area containing some Listed Buildings. Additionally this part of Ditton Priors is within the National Landscapes designation, however the site and the eastern side of the village are outside that boundary. Ditton Priors benefits from having a school and pre-school, church, medical practice, shop, petrol station/garage, recreation ground with play area and pavilion, trading estate and a village hall.
- 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION
- 3.1 Complex or major applications which in the view of the Assistant Director of Economy and Place or the Head of Planning Services in consultation with the Committee Chairman or Vice Chairman should be determined by the relevant Planning Committee
- 4.0 Community Representations
- 4.1 - Consultee Comments
- 4.1.1 Ditton Priors Parish Council - Understands weight is now being put on proposed sited in the emerging Local Plan. The remaining issue is that the site is in that plan for 40 units, not 44.
- The Parish Council and community are extremely concerned about the narrow country roads in poor condition that lead to the village.
 - Whilst two bungalows have been added to the site, the mix of dwelling size overall has not changed from the original.
 - There is no public transport on a regular basis through Ditton Priors.
 - Pedestrians will cross roads three times to reach the village centre.
 - If the application is Approved, the Parish Council requests conditions requiring a strict Traffic Management Plan and that no dwellings are occupied until the relevant works are carried out to ensure the sewage system is fit for purpose.
- 4.1.2 SC Affordable Housing - No objection. The proposal identifies an over-provision of 5% in relation to the 20% requirement for the Ditton Priors area. The mix and space standards satisfy requirements.
- 4.1.3 SC Learning and Skills - It is essential that the developers contribute towards the consequential cost of any additional places/facilities considered necessary to meet pupil requirements. Based on a development of 44 dwellings, it is recommended

that CIL contributions are used towards school capacity requirements in the locality.

- 4.1.4 SC Highways - No objection raised to the granting of consent subject to the recommended conditions, a S106 contribution in relation to the cost of advertising the Traffic Regulation Order (TRO) and minor amendments to the S38 Layout drawing.
- 4.1.5 SC Waste Management - Are satisfied with the tracking of refuse vehicles that has been included.
- 4.1.6 SC Drainage - The proposed drainage strategy is acceptable in principle, with further information required through recommended conditions relating to foul and surface water disposal, and surface water discharge.
- 4.1.7 SC Environmental Protection - Does not disagree with the conclusions of the submitted site investigation and risk assessment, and the site is suitable for its proposed residential end use, without any remediation. However, there is always the possibility that contamination remains unidentified and therefore an appropriate conditions is recommended.
- 4.1.8 SC Trees - The findings and recommendations of the amended Arboricultural Method Statement (Incorporating Arboricultural Impact Assessment and Tree Protection) (edp, September 2024) are accepted. The differences in layout are considered minor and not significant in arboricultural terms and there remains no objection to this application on arboricultural grounds.
- 4.1.9 SC Landscaping - The majority of the changes in the revised layout would not alter the conclusions of the LVIA. However there is a concern that the built form appears to have moved closer to the National Landscapes boundary and weakens it by replacing native hedgerow with a stone filled ditch. It is therefore advised that the landscape treatment along this boundary be revisited to maximise screening opportunities and provide a high-quality boundary to the development that reflects local landscape character.
- 4.1.10 SC Green Infrastructure - Advice provided in relation to improvements to the POS and Planting Strategy. Conditions recommended in relation to hard and soft landscaping details and a Habitat Management and Monitoring Plan (HMMP).
- 4.1.11 SC Conservation - Raise no principle objections. Concur with the submitted Heritage Impact Assessment (HIA) that the proposed development would have a neutral effect on the Grade II* Listed Church of St John the Baptist and a negligible adverse effect on the Conservation Area.
- 4.1.12 SC Archaeology - Acknowledge the submission of an amended Heritage and

Archaeology Assessment (HHA) (edp, August 2024), and Geophysical Survey (Sumo GeoSurveys, 25 September 2024). Responses of uncertain origin have been identified which could be related to geological changes or agricultural processes. As the potential that these anomalies could have an archaeological origin cannot be entirely ruled out, a pre-commencement condition requiring a programme of archaeological work is recommended.

4.1.13 SC Ecology - The Addendum Ecological Appraisal carried out by EDP (November 2024) determined the site to be of ecological importance for breeding birds, bats, dormice, otter, badgers and great crested newts. As such, further assessment for these species was conducted and the survey work carried out is acceptable. Conditions and informatives recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

4.1.14 Severn Trent Water - No objections to the proposal subject to the inclusion of a pre-commencement condition requiring plans for the disposal of foul and surface water flows.

4.2 - Public Comments

4.2.1 Confirmation of site notice display was received on 30th July 2024. The proposal was advertised in the Shropshire Star as a Major Development on 6th August 2024, and as a Departure on 10th December 2024.

4.2.2 19 public representations have been received from 18 different contributors including a Speeding on Derrington Road Survey (in the light of proposed development by Shropshire Homes). All raise concerns which are summarised below:

- There is no proven local housing need and these dwellings will be occupied by incomers with work, leisure and family elsewhere resulting in distant vehicular movements.
- The number of 1 and 2 bed homes are not sufficient.
- Need bungalows in the development as the village is short of small private properties for the older generation.
- There are not enough affordable houses for young local people in this proposed development.
- The affordable housing for rental will be taken up by large housing associations where they are not earmarked for local families. Young people in the area growing up in the area will move away. The proposal exceeds the existing development plan and takes up all the proposed allocation in the emerging plan.
- The proposal is considered to be an overdevelopment of the site which fails to provide sufficient high quality of useable open space, fails to ensure that all dwellings meet the Nationally Described Space Standards for internal

floorspace, provide no visitor parking, within a cramped incoherent layout that does not reflect the character of Ditton Priors.

- Any additional development will ruin this beautiful and remote part of Shropshire.
- It is in reality a small isolated village, not a Hub.
- The proposal for 44 new brick houses will add over 10% to the number of dwellings in this historic rural village, changing the character to urban.
- The proposal is much more suited to the edge of a town given its layout, building design and size.
- The character of the proposed development is sorely out of line with the current housing and Listed Buildings in the village which is primarily made up of individual properties in rows alongside the road with small pockets of properties in places.
- Due to its location at a prominent edge of village location, adjacent to the AONB, it is particularly important that any proposal sets an appropriate example in terms of design quality.
- Ditton Priors does not have the infrastructure to support an additional 44 dwellings
- The award winning doctors surgery will not be able to provide the quality treatment it provides if the number of patients increases.
- The store, pub, and petrol station will need to be expanded to cope with demand.
- Ditton Priors cannot be reached by any main roads only narrow winding lanes which are impassable by two vehicles in many places.
- The existing roads are poorly maintained and cannot cope with the volume and type of current traffic.
- The extra traffic on these roads will lead to potentially dangerous conditions for pedestrians, horse riders and cyclists who frequent the routes.
- The Transport Statement is focussed purely on the immediate part of Derrington Road by the development, there is no review or comment on the three roads leading into the village.
- The houses may be within walking distance of a primary school and store, but people will need to travel in and out of Ditton Priors to access work, supermarkets and other schools etc.
- Employment in the area is very limited.
- Ditton Priors has virtually no public transport.
- There are very few public footpaths and even less that are lit.
- There needs to be more provision for pedestrians.
- No consideration appears to be given to road safety, especially for the elderly or disabled.
- The existing properties to the west of the site (Church Meadow) will be overlooked by new properties that will potentially overshadow the gardens and reduce privacy.

- Derrington Road often experiences severe flooding due to the old water pipe system.
- Swifts are in trouble, a minimum of 44 swift nest bricks should be made a planning condition.

5.0 THE MAIN ISSUES

- Principle of Development
- Layout, Scale and Design
- Access
- Drainage
- Ecology and Trees
- Residential Amenity
- Historic Environment
- Capacity of Local Services

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 47 of the National Planning Policy Framework (NPPF), all planning applications must be determined in accordance with the adopted Development Plan taken as a whole unless material consideration indicate otherwise. For the purposes of the assessment of this application the Development Plan presently comprises the adopted Shropshire Council Local Development Framework Core Strategy 2011 and the Site Allocations and Management of Development (SAMDev) Plan. There are also a range of Supplementary Planning Documents to be taken into account as material considerations.

6.1.2 A key objective of the adopted Development Plan is to concentrate residential development in locations that promote economic, social and environmental sustainability. Core Strategy Policies CS1, CS3, CS4 and CS5 seek to achieve managed, targeted growth by steering new open-market housing to sites within market towns, other 'key centres' and certain named villages (Community Hubs and Clusters) as identified in the SAMDev Plan. Sporadic development in the countryside outside of the designated settlements is generally unacceptable unless there are exceptional circumstances as set out in Core Strategy Policy CS5 and SAMDev Policy MD7a.

6.1.3 Ditton Priors is defined as a Community Hub within the adopted Development Plan, however the application site falls outside, but adjacent to its development boundary and is located in the countryside. Therefore, in relation to the adopted Development Plan, the site is not a suitable location for open market residential development.

6.1.4 In regards to the status of the adopted policies for housing, the current published Five-Year Housing Land Supply Statement with a base date of 31st March 2023

concludes that Shropshire Council can currently demonstrate 5.91 years supply of deliverable housing land against the housing requirement within the adopted Development Plan, and 7.63 years supply of deliverable housing land against the housing need identified within the Local Housing Need Assessment. As such, the relevant adopted Development Plan policies remain up to date and contribute to achieving sustainable development through the right types of new housing, in the right location and within the right timescales.

- 6.1.5 Shropshire Council have an emerging Draft Local Plan (2016-2038) which has been through several stages of consultation and submitted to the Planning Inspectorate for examination on 3rd September 2021. As part of the Local Plan Review, the first phase of public hearing sessions took place in July 2022, January 2023 and May 2023. The advanced second phase began in October 2024, however on October 29th the Inspectors issued a holding letter whilst they set out significant concerns about the soundness of the Plan in respect of a number of areas to the Council. At this time, a detailed letter from the Planning Inspectorate is awaited. The application site is a Draft Allocation (DNP009) within the Plan with a provision guideline of 40 dwellings.
- 6.1.6 The NPPF advises at paragraph 48 that local planning authorities may give weight to relevant policies in emerging plans according to:
- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
 - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
 - and
 - c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)
- 6.1.7 Given the relatively advanced stage of the Local Plan Review some limited weight could be applied to relevant Draft Local Plan policies as a material consideration in the planning application decision-making process. However, the limited weight that could be given during determination is significantly reduced at this time due to the Inspector's instructions to pause the Local Plan Review process.
- 6.1.8 In the context of the Draft Local Plan, there are no unresolved objections relating to the proposed allocation of DNP009 for residential development or for Ditton Priors to remain a Community Hub, and very limited unresolved objections relating to the overall strategy for Ditton Priors. Therefore the level of weight given to supporting the proposed development based on the Draft Local Plan and with regard to wider material considerations can be greater in the context of paragraph 48 of the NPPF.

6.1.9 The NPPF constitutes policy as a material consideration to be given significant weight in determining applications. The NPPF sets out the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the Development Plan. The current NPPF is that revised and published in December 2023, however a Draft NPPF was provided for consultation between July and September 2024 seeking views on the Government's approach to revising it, alongside a series of wider national planning policy reforms. The adoption of a new NPPF is therefore understood to be imminent. The Committee should have regards to the NPPF in force at the date it considers the application. If the NPPF changes prior to the issuing of a decision notice, then officers will decide whether the matter should be returned to the Committee for further consideration. The main consideration for this proposal is whether the application site is in a suitable location for residential development having regard to the adopted Development Plan, and if not, are there any other considerations sufficient to indicate that the proposal should be determined otherwise in accordance with the adopted Development Plan.

6.1.10 The benefits of the proposed development to be weighted against the conflict with the adopted Development Plan have been presented in the covering letter submitted with the application as including:

- That the site is allocated for residential development within the Draft Local Plan under DNP009, confirming in principle that in the Council's view it is suitable for development.
- That a significant 25% proportion of the new dwellings will be specifically affordable homes, the provision being 5% above the policy requirement.
- The provision of a range of sizes and types of both new open market and affordable homes including smaller properties for first time buyers to get on the housing ladder.
- Homes designed to maximise energy efficiency with low carbon energy sources
- Many jobs created and supported during the construction phase of the development.
- A boost in expenditure in the locality and wider area to the benefit of local businesses and local economy.
- An increase in Council tax revenue and a New Homes Bonus.
- Financial contributions through CIL to support local community infrastructure and ensure local schools can accommodate additional pupils arising as a result of the development.
- A total of 0.49 hectares of functional and usable open green space for occupants and existing residents in the area.
- Biodiversity improvements to meet the net gain policy requirements.

6.1.11 Whilst the Draft Local Plan should be given reduced limited weight in the

determination of planning applications at this time, the status of DNP009 within it can be given greater support as there are no unresolved objections to its allocation for residential development, nor to Ditton Priors remaining a Community Hub i.e. a village where the sustainability of the community can be enabled through sensitively designed development that reflects the needs of the local community. The provision of 25% affordable homes and therefore 5% above the Draft Policy DP3 requirement is an uplift which is a significant material consideration. The mix and variety of dwelling proposed satisfies the requirements of Draft Policy DP1:

At least 25% of open market dwellings will be dwellings with 2 bedrooms or less. At least a further 25% of open market housing will be dwellings with 3 bedrooms, or less. The remainder of the open market dwellings will include a suitable mix and variety of dwelling sizes.

The affordable dwellings satisfy space standards as per the Nationally Described Space Standards, and at least 5% of the dwellings (3) will be built to M4(3) (wheelchair user dwellings) and 70% of the dwellings will be built to the M4(2) (accessible and adaptable dwellings) standards. This delivery is consistent with the requirements of Draft Policy DP1.

6.1.12 It is also noted that there would be substantial economic benefits associated with the delivery of this scale of development, including direct and indirect jobs during construction, in addition to the increase in resident spend to the benefit of the local facilities. Significant Biodiversity Net Gain is indicated within the proposal, and a POS provision above planning standards.

6.1.12 Therefore the benefits of the proposed development, particularly the over provision of affordable housing, Biodiversity Net Gain and POS should be given significant weight in the determination of this application. The principle of the development is acceptable and supported.

6.2 Layout, Scale and Design

6.2.1 The proposed development, as amended, includes an appropriate mix of one and two storey properties ranging in scale from one to four bedrooms. There is a good variety and mixed layout of house types over a materials palette of light biscuit, red and red/brown bricks, and slate grey/peat brown roof tiles. Details and architectural features would include chimneys, bay and dual pitched roof dormer windows, porches, decorative brickwork around the windows and at the eaves, half timbered gables and areas of Larch cladding. The varied materials palette and architectural designs aim to reflect the existing character of the village, and provide visual interest across the site.

6.2.2 The layout of the proposed development is acceptable providing an active frontage onto Derrington Road and the POS within the site. The design, location and

orientation of the dwellings have been refined through gradual revision to be appropriate. The amendment to include two bungalows adjacent to the existing dwellings to the west would result in a more mutually satisfactory arrangement.

6.3 Access

6.3.1 The application is accompanied by a Transport Statement which concludes that there are no prevailing road safety problems that would require further investigation. Safe and suitable access would be provided from Derrington Road, with the proposed access afforded appropriate visibility and able to accommodate all required vehicle movements. Additionally, enhanced pedestrian access between the site and Ditton Priors Village Centre would be constructed in the form of new and resurfaced footways along Derrington Road with a relocated crossing point and safe refuge point. An extension to the existing 30mph speed restriction is further indicated, the exact location of which would need to be agreed with West Mercia Police subject to an amendment to the Traffic Regulation Order (TRO) which is a statutory process. The cost of the LHA advertising the TRO can be secured through a S106 obligation or through the Section 278/38 Agreement required for the on-site and off-site highway works. The LHA have confirmed the acceptability of the proposed highway works in principle subject to minor alterations and clarifications as part of the Section 38 technical approval process and to recommended conditions.

6.3.2 Submitted public representations have raised concerns over the impact of the proposed development with increased volume and type of traffic on the road network leading into the village. Whilst it is acknowledged that the surrounding highway network on some approaches to Ditton Priors is constrained, the settlement of Ditton Priors is considerable to be a sustainable location with a number of local amenities. In accordance with the 2011 Census, Ditton Priors current has more than 338 households, and further development has taken place since the 2011 census. Ditton Priors Trading Estate located in the east of the settlement also generate a number of vehicle movements. Therefore the proposed development will generate a number of additional trips on the surrounding highway network, however, it is not considered that the likely impact would be severe nor meet the tests for a highway objection in consideration of the number of vehicle movements within the vicinity of the site.

6.4 Drainage

6.4.1 Sc Drainage have found the proposed drainage strategy for the development acceptable in principle with further details required through conditions in support of the strategy. Severn Trent Water have no objections to the proposal subject to the inclusion of a pre-commencement condition requiring plans for the disposal of foul and surface water flows.

6.5 Ecology and Trees

- 6.5.1 Revisions to and additional information for the Arboricultural Method Statement and LVA, Ecological Appraisal and Addendum Ecological Appraisal have all been submitted for the proposal in response to matters raised by SC Trees and SC Ecology. The survey work carried out for these aspects is acceptable to the Council's Ecologist and Tree Officer subject to conditions relating to the management of habitat from the construction phase onwards, a Protected Species Method Statement, final landscaping, tree protection, and to secure wildlife mitigation and enhancements.
- 6.6 Residential Amenity
- 6.6.1 The siting of the proposed dwellings, as amended to replace two dwellings with two bungalows, has been clearly considered to minimise any overbearing, overshadowing or overlooking impacts on existing neighbouring residential amenity. The proposed dwellings are positioned appropriately for mutual privacy between them and with the existing dwellings to the west. The submitted Noise Impact Assessment recommends modest noise mitigation measures for the dwellings close to the school boundary with the development site for which appropriate specifications are contained in the document. The proposed development would safeguard residential and local amenity.
- 6.7 Historic Environment
- 6.7.1 A Heritage and Archaeology Assessment (revised version 001b) has been submitted in support of the proposal which concludes that the proposed development would result in a neutral effect to the Grade II* St John the Baptist Church approximately 130m south-west of the site within the village centre and a negligible adverse effect to the special interest of the northern character area of the Ditton Priors Conservation Area. The proposed development would result in no harm to the significance of the Designated Heritage Asset and have a very low end result of 'less than substantial harm' to the significance of the Conservation Area. Both SC Conservation and Archaeology concur with these conclusions. However there is a question of geological anomalies identified at the site presented within the Assessment which would require further exploration through a programme of archaeological work which could be satisfactorily managed through a condition.
- 6.7.2 Where a development proposal will lead to 'less than substantial harm' to the significance of a Designated Heritage Asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (paragraph 208, NPPF). For the proposed development, the public benefits as outlined in Section 6.1 of this report are significant.
- 6.7.3 Under Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 there is a duty placed on Local Authorities in exercising their statutory duty to have regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess. At

paragraph 190 the NPPF advises that local planning authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority to have special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas in exercising planning functions. In this case, there would be no harm to the significance of nearby heritage assets or their setting, nor to the character and appearance of Ditton Priors Conservation Area.

6.8 Capacity of Local Services

6.8.1 Several of the public representations received have raised concerns in relation to the potential impact of the proposed development on community facilities including the additional demand put on the medical practice. The proposed development would be liable for Community Infrastructure Levy (CIL) payment which would contribute to prioritised infrastructure needs of communities identified in the Shropshire Place Plans and the LDF Implementation Plan (or Draft Local Infrastructure Plan/Draft Policy DP25).

6.8.2 SC Learning and Skills have recognised that the proposed development would generate a requirement for additional places/facilities to meet pupil requirements, and recommend that CIL contributions are used towards school capacity needs in the locality.

7.0 CONCLUSION

7.1 The proposed development constitutes a departure from the adopted Development Plan which remains up to date in relation to its housing policies. Planning applications should be determined in line with the Development Plan unless material considerations indicate otherwise. In this case, there are material considerations in that the site is allocated for residential development in the DRAFT Local Plan which can only be given reduced limited weight at this time, that however can be given greater support as there are no unresolved objections to its allocation for residential development, nor to Ditton Priors remaining a Community Hub. Further material considerations are that the proposed development would provide above policy requirements for affordable housing, Biodiversity Net Gain and POS, and it would provide substantial economic benefits for Ditton Priors. These matters can be given substantial weight in the planning balance. Whilst the 'less than substantial harm' to the historic environment also needs to be considered, in all other respects the proposed development can be made acceptable and appropriately managed through the use of conditions and a Section 106 Agreement.

7.2 Therefore it is the view of officers that the material considerations put forward in relation to the proposed development override its departure from the adopted

Development Plan and it is recommended for Approval subject to the conditions set out in Appendix 1 and completion of a S106 Agreement to secure the provision of affordable housing in perpetuity, a POS Specification and Maintenance Scheme, Biodiversity Net Gain and the construction and transfer of the School Car Park Facilities. The Agent has agreed that a financial contribution in relation to the Traffic Regulation Order to extend the existing speed limit area can be recovered through the required S278 Agreement as a clause stating that the developer covers the LHAs reasonable costs.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

National Planning Practice Guidance

LDF Core Strategy Policies:

CS1 Strategic Approach

CS4 Community Hubs And Clusters

CS5 Countryside And Green Belt

CS6 Sustainable Design And Development Principles

CS9 Infrastructure Contributions

CS10 Managed Release Of Housing Land

CS11 Type And Affordability Of Housing

CS17 Environmental Networks

CS18 Sustainable Water Management

Site Allocations & Management Of Development (SAMDev) Plan Policies:

- MD1 Scale and Distribution of development
- MD2 Sustainable Design
- MD3 Delivery Of Housing Development
- MD7a Managing Housing Development In The Countryside
- MD12 Natural Environment
- MD13 Historic Environmen

Supplementary Planning Documents (SPDs):
Type And Affordability Of Housing

DRAFT Shropshire Local Plan 2016 - 2038 (December 2020)

Strategic Policies

- SP1 The Shropshire Test
- SP2 Strategic Approach
- SP3 Climate Change
- SP4 Sustainable Development
- SP5 High Quality Design
- SP6 Health and Wellbeing
- SP7 Managing Housing Development
- SP8 Managing Development in Community Hubs

Development Management Policies

Residential

- DP1 Residential Mix
- DP3 Affordable Housing Provision

Climate Change

- DP11 Minimising Carbon Emissions

Natural and Historic Environment

- DP12 The Natural Environment
- DP14 Green Infrastructure
- DP15 Open Space and Recreation
- DP16 Landscaping of New Development
- DP18 Pollution and Public Amenity
- DP20 Water Efficiency
- DP21 Flood Risk
- DP22 Sustainable Drainage Systems
- DP23 Conserving and Enhancing the Historic Environment
- DP24 Shropshire Hill Area of Outstanding Natural Beauty

RELEVANT PLANNING HISTORY: _

PREAPP/24/00259 - Proposed development of 44 residential plots consisting of 1, 2, 3 and 4

AGENDA ITEM

Southern Planning Committee - 17th December 2024

Proposed Residential
Development Land To The
East Of

bed properties with 33 market houses and 11 affordable units. Acceptable In Principle 23rd July 2024.

11. Additional Information

View details online: [24/02828/FUL](#)

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

- Design and Access Statement Ref: September 2024 - Rev C.
- Statement of Compliance with Emerging Policy (June 2024).
- Landscape and Visual Appraisal (Environmental Dimension Partnership Ltd, September 2024) Ref: edp8514_r002c.
- Flood Risk Assessment and Conceptual Drainage Strategy (rps, September 2024) Ref: 794-DES-BMK-30156 Version 4.
- Geo-Environmental Assessment Report (Travis Baker Ltd) Ref: 23155.
- Geophysical Survey Report (Sumo GeoSurveys, 26th September 2024) Ref: SUMO 19195 Sumogeop1-527871.
- Project Design & Risk Assessment Method Statements For Geophysical Survey (Sumo GeoSurveys, September 2024) Ref: SUMO 19195 Sumogeop1-527871.
- Transport Statement Rev A (DTA, 17th July 2024) Ref: DN/JN/25499-01a Transport Statement.
- Road Safety Audit: Stage 1 (Meraki Alliance, 19 May 2024) Ref: MAL/DRDPRSA1Rev0
- Ecological Appraisal (Environmental Dimension Partnership Ltd, September 2024) Ref: edp8514_r005a.
- Addendum Ecological Appraisal (Environmental Dimension Partnership Ltd, November 2024) Ref: Edp8514_r007.
- Arboricultural Method Statement (Incorporating Arboricultural Impact Assessment and Tree Protection) (Environmental Dimension Partnership Ltd, September 2024) Ref: edp8514_r004d.
- Heritage and Archaeology Assessment (Environmental Dimension Partnership Ltd, August 2024). Ref: edp8514_r001b .
- Noise Impact Assessment (Hepworth Acoustics, July 2024) Ref: P24-010-R01v4.
- Detailed UXO Risk Assessment (Brimstone, 18th January 2024) Ref: DRA-23-1634-SHRO14R-LandoffDerringtonRoad,DittonPriors.
- Air Quality Assessment (rps, 4th March 2024) Ref:20382.

Cabinet Member (Portfolio Holder) - Councillor Chris Schofield

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Proposed Residential
Development Land To The
East Of

Local Member

Cllr Robert Tindall

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITIONS

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

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

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

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

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

4. If contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An Investigation and Risk Assessment must be undertaken in accordance with current guidance - Land Contamination: Risk Management (Environment Agency, October 2020; updated July 2023) and must be submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared which must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The remediation proposal is subject to the approval in writing by the Local Planning Authority

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

5. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding birds, bats, badgers, great crested newts and dormice as provided in Section 5 of the Addendum Ecological Appraisal (EDP, November 2024).

Reason: To ensure the protection of and enhancements for bats, dormice and Great Crested Newts, which are European Protected Species, badgers which are protected under the Protection of Badgers Act (1992) and birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended)

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. Prior to the commencement of development, a Phasing Plan including details of the timing of the construction of the affordable housing in relation to the occupancy of the market housing shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be undertaken in accordance with the approved details.

Reason: This condition is a pre-commencement condition to ensure the implementation of the affordable housing units.

7. No development shall take place until a scheme of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

8. Prior to the commencement of the development, further details in support of the Drainage Strategy shall be submitted to and approved in writing by the Local Planning Authority and shall include:

- a) Details to demonstrate that the ditch proposed to accept the surface water discharge and outfall from the development is viable.
- b) The drainage ditch along the south and south west perimeter to be defined as they are identified in the FRA as intercepting surface water and necessary to manage overland flow routes. If they are to be excluded, it should be demonstrated that they are not required. Reference should be made to these ditches in an updated SUDs Maintenance Plan.
- c) For any outfall areas outside the red line boundary, details confirming acceptance and access rights for maintenance from the landowner.
- d) Information demonstrating that Ordinary Watercourse Consent is in place for the school car park culvert section.
- e) Details of the diversion proposed for the existing highway drain in the north west corner of the site.

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

9. No development shall take place, until a Construction Management Plan incorporating a method statement has been submitted to and approved in writing by the Local Planning Authority and shall provide for:

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

The plan shall be adhered to throughout the construction period.

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

10. All pre-commencement tree works and tree protection measures as detailed in Section 9 (Arboricultural Method Statement), Plan EDP2: Tree Protection Plan (edp8514_d018d) and Appendices EDP 7, 8 and 9 of the approved Arboricultural Method Statement (Incorporating Arboricultural Impact Assessment and Tree Protection) (ref: edp8514_r004d, edp ltd, September 2024) shall be fully implemented to the written satisfaction of the Local Planning Authority, before any development related equipment, materials or machinery are brought onto the site.

Reason: The condition is a pre-commencement condition to safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

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11. The development shall be implemented in accordance with Section 9 (Arboricultural Method Statement), Plan EDP2: Tree Protection Plan (edp8514_d018d) and Appendices EDP 7, 8, 9, 10 and 11 of the approved Arboricultural Method Statement (Incorporating Arboricultural Impact Assessment and Tree Protection) (ref: edp8514_r004d, edp ltd, September 2024). The approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development, until all equipment, machinery and surplus materials have been removed from the site.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

12. Prior to commencement of the development above ground a final hard and soft Landscaping Scheme has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be prepared in accordance with British Standard 8545: 2014 Trees: from Nursery to Independence in the Landscape Recommendations, or its current version. It shall be based upon the Planting Strategy drawings, Sheets 1-7 (edp8514_d017e) and include details as relevant of ground preparation, planting pit specification and the trees and shrubs to be planted in association with the development (including species, locations or density and planting pattern, type of planting stock and size at planting), means of protection and support and measures for post-planting maintenance.

b) The approved Landscaping Scheme shall be implemented as specified and completed prior to completion of the development. If within a period of five years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies or, in the opinion of the Local Planning Authority becomes seriously damaged or diseased, or is otherwise lost or destroyed, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season.

Reason: To ensure satisfactory tree and shrub planting as appropriate to enhance the appearance of the development and its integration into the surrounding area.

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

- a) An appropriately scaled plan showing 'Wildlife/Habitat Protection Zones' where construction activities are restricted, where protective measures will be installed or implemented;
- b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c) Requirements and proposals for any site lighting required during the construction phase;
- d) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- e) The times during construction when an ecological clerk of works needs to be present on

- site to oversee works;
- f) Identification of Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
 - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
 - vi) Provision of training and information about the importance of 'Wildlife Protection Zones' to all construction personnel on site.
 - g) Pollution prevention measures.

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

Reason: This condition is a pre-commencement condition to protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 174 of the NPPF.

14. No development above ground shall take place (including demolition, ground works and vegetation clearance) until a Habitat Management Plan of the on and off site gains has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Description and evaluation of the features to be managed;
- b) Ecological trends and constraints on site that may influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a works schedule (including an annual work plan and the means by which the plan will be rolled forward annually);
- g) Personnel responsible for implementation of the plan;
- h) Detailed monitoring scheme with defined indicators to be used to demonstrate achievement of the appropriate habitat quality;
- i) Possible remedial/contingency measures triggered by monitoring;
- j) The financial and legal means through which the plan will be implemented.

The plan shall be carried out as approved.

Reason: This conditions is a pre-commencement condition to protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 180 of the NPPF.

15. Prior to commencement of development, a method statement shall be submitted that sets out working methods in relation to great crested newts, bats (in trees), reptiles and nesting birds. All works shall occur strictly in accordance with the method statement, under the supervision of an Ecological Clerk of Works where necessary.

Reason: This condition is a pre-commencement condition to ensure the protection of wildlife.

16. Within six weeks prior to the commencement of development, a badger inspection shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. If new evidence, or a change in status, of badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy for prior approval that sets out appropriate actions to be taken during the works. These measures will be implemented as approved.

Reason: The condition is a pre-commencement condition to ensure the protection of badgers under the Protection of Badgers Act 1992.

17. (a) No development approved by this permission shall commence until a Written Scheme of Investigation (WSI) for a phased programme of archaeological work has been submitted to and approved by the Local Planning Authority in writing.

(b) The approved programme of archaeological work set out in the Written Scheme of Investigation shall be implemented in full and a report detailing the results of the archaeological work provided to the Local Planning Authority prior to first use or occupancy of the development.

Reason: The condition is a pre-commencement condition to protect the archaeological interest of the site.

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

18. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority before being used in the development. The development shall be carried out in complete accordance with the approved details.

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

19. Full details of the means of access, including the extent of the junction bell mouth and the junction radii, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation. The approved details shall be fully implemented before any of the dwellings at the site are first occupied.

Reason: To ensure a satisfactory means of access to the highway.

20. Full engineering details of all offsite highway works shall be submitted to and approved in writing by the Local Planning Authority, and implemented in accordance with the approved details before any of the dwellings at the site are first occupied.

Reason: To ensure satisfactory offsite highway works and improve highway safety.

21. Notwithstanding the construction details submitted, the construction of any new estate street shall not be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highway's infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.

22. The construction of any new estate street shall not be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reasons: To ensure that the estate streets serving the development are completed and maintained to the approved standard, and are available for use by the occupants, and other users of the development, in the interest of highway safety.

23. No dwelling shall be occupied until the estate streets affording access to those dwellings has been completed to binder course in accordance with the Estate Street Development Plan for Parking, loading, unloading, and turning. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking, loading, unloading and turning of construction related vehicles has been properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

24. There should be no removal of species-rich hedgerows, until a European Protected Species (EPS) Licence with respect to dormice has been obtained from Natural England and submitted to the Local Planning Authority.

Reason: To ensure the protection of dormice, which are European Protected Species.

25. Prior to first occupation/use of the dwellings, the makes, models and locations of wildlife boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 15 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 10 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).
- A minimum of 10 artificial nests, of integrated brick design, suitable for swifts (swift bricks).
- A minimum of 15 invertebrate bricks/houses of integral and/or external design, suitable for pollinators.
- A minimum of 8 hedgehogs domes (standard design), to provide refuge for hedgehogs.
- A minimum of 3 hibernaculum to provide refuge for herptiles.

The boxes shall be sited at an appropriate height above the ground, with a clear flight path and where they will be unaffected by artificial lighting. Bat boxes should be erected on southerly aspects (south-west, south or south-east) and bird boxes should be erected on northerly or shaded east/west aspects.

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

The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 174 of the NPPF.

26. Prior to first occupation/use of the dwellings, details for the provision of dormouse boxes shall be submitted to and approved in writing by the Local Planning Authority. A minimum of 10 dormouse nest boxes shall be erected on the site. The boxes shall be sited in accordance with the latest guidance and thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for dormouse, in accordance with MD12, CS17 and section 180 of the NPPF.

27. Prior to the erection of any external lighting on the site, a Lighting Plan shall be submitted to and approved in writing by the Local Planning Authority. The Lighting Plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or

sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trusts Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To minimise disturbance to bats, which are European Protected Species.

Informatives

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

Central Government Guidance:

National Planning Policy Framework

National Planning Practice Guidance

LDF Core Strategy Policies:

CS1 Strategic Approach

CS4 Community Hubs And Clusters

CS5 Countryside And Green Belt

CS6 Sustainable Design And Development Principles

CS9 Infrastructure Contributions

CS10 Managed Release Of Housing Land

CS11 Type And Affordability Of Housing

CS17 Environmental Networks

CS18 Sustainable Water Management

Site Allocations & Management Of Development (SAMDev) Plan Policies:

MD1 Scale and Distribution of development

MD2 Sustainable Design

MD3 Delivery Of Housing Development

MD7a Managing Housing Development In The Countryside

MD12 Natural Environment

MD13 Historic Environmen

Supplementary Planning Documents (SPDs):

Type And Affordability Of Housing

DRAFT Shropshire Local Plan 2016 - 2038 (December 2020)

Strategic Policies

SP1 The Shropshire Test

SP2 Strategic Approach

- SP3 Climate Change
- SP4 Sustainable Development
- SP5 High Quality Design
- SP6 Health and Wellbeing
- SP7 Managing Housing Development
- SP8 Managing Development in Community Hubs

Development Management Policies

Residential

- DP1 Residential Mix
- DP3 Affordable Housing Provision

Climate Change

- DP11 Minimising Carbon Emissions

Natural and Historic Environment

- DP12 The Natural Environment
- DP14 Green Infrastructure
- DP15 Open Space and Recreation
- DP16 Landscaping of New Development
- DP18 Pollution and Public Amenity
- DP20 Water Efficiency
- DP21 Flood Risk
- DP22 Sustainable Drainage Systems
- DP23 Conserving and Enhancing the Historic Environment
- DP24 Shropshire Hill Area of Outstanding Natural Beauty

2. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.

3. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £145 per request, and £43 for existing residential properties.

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

4. The land and premises referred to in this planning permission are the subject of an

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

5. - Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse available as an alternative, other sustainable methods should also be explored. If these are found unsuitable satisfactory evidence will need to be submitted before a discharge to the public sewerage system is considered. No surface water to enter the foul or combined water systems by any means.

- The adoptable drainage is subject to a S104, with pump rates to be agreed by ST in two phases, firstly the initial 10 properties and increasing to accommodate the full site.

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

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

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

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

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

All vegetation clearance, tree removal, scrub removal and/or conversion, renovation and demolition work in buildings (or other suitable nesting habitat) should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If

vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

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

8. Badgers, their setts and the access to the setts are expressly protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or control a badger; to damage, destroy or obstruct access to a sett; and to disturb a badger whilst it is occupying a sett.

Badgers are a highly mobile species and are known to create new setts and abandon and re-use existing setts in relatively short periods of time.

No development works or ground disturbance should occur within 30m of a badger sett without having sought advice from an appropriately qualified and experienced ecologist and, where necessary, without a Badger Disturbance Licence from Natural England. All known badger setts must be subject to an inspection by an ecologist immediately prior to the commencement of works on the site.

There is an unlimited fine and/or up to six months imprisonment for such offences. Items used to commit the offence can also be seized and destroyed.

9. Widespread reptiles (Adder, Slow Worm, Common Lizard and Grass Snake) are protected under the 1981 Wildlife and Countryside Act (as amended) from killing, injury and trade and are listed as Species of Principle Importance under Section 41 of the 2016 NERC Act. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the 2006 Natural Environment and Rural Communities Act. Reasonable precautions should be taken during works to ensure that these species are not harmed.

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

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

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be

done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

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

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

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

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

If a Great Crested Newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

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AGENDA ITEM



Committee and date

Southern Planning Committee

17th December 2024

Development Management Report

Responsible Officer: Rachel Robinson, Director of Health Wellbeing and Prevention

Summary of Application

Application Number: 24/03787/FUL	Parish: Cleobury Mortimer Town Council
Proposal: Proposed 58 bedroom residential care accommodation, access, amenity space and associated works (Resubmission of 23/03056/FUL)	
Site Address: Cleobury Hills, High Street, Cleobury Mortimer, Shropshire, DY14 8DN	
Applicant: Mrs Juliet Briggs	
Case Officer: Louise Evans	email: Louise.m.evans@shropshire.gov.uk

Grid Ref: 366968 - 275752

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Recommendation:- Approval subject to the conditions set out in Appendix 1 and a section

106 agreement to recover the costs of administering a Traffic Regulation Order, with delegation to officers to refine or amend conditions and the detail of the section 106 as required.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks full planning permission for the construction of a residential care home comprising 58 bedrooms with associated communal space, staff facilities and parking to be served by an existing access off the A4117 (High Street).
- 1.2 The proposed building is roughly L shaped and is two storeys in height on the higher, northern half of the site and three storeys where the ground level drops towards the site entrance. Some staff rooms are also proposed in the roof of the three-storey element of the building.
- 1.3 The development will be served by 22 car parking spaces within landscaped grounds.
- 1.4 Planning approval was granted by Shropshire Council for a 58 bedroom care home (ref 14/00690/FUL), which was built and then demolished in 2022 following findings that the building was not constructed in accordance with the required regulations.
- 1.5 A scheme for a care home comprising of 75 bedrooms was submitted (ref 23/03056/FUL) but was refused on three grounds, these being the impact to residential amenity, the lack of open space and parking concerns. However, this did relate to a larger scheme than that currently proposed.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site lies within the town of Cleobury Mortimer and is located north of A4117 (High Street) on the western edge of the town.
- 2.2 The site occupies approximately 1.08 acres (0.44ha).
- 2.3 The site was previously the location of a disused light industrial unit prior to the construction and demolition of the previous care home.
- 2.4 The site is currently vacant. The previously approved and constructed access and parking court remains in situ, as do the approved boundary fences but all buildings have been completely demolished and the site cleared.
- 2.5 To the north is a public footpath with school playing fields beyond. The site slopes up towards the northern boundary.

2.6 A small portion of the south east corner of the site is in Cleobury Mortimer Conservation Area. The site is set back from the roadside to the rear of the existing buildings of No. 67, 68 and 69, High Street which are grade II listed dwellings that date to the 18th century.

2.7 There is an existing access onto the A4117 (High Street) opposite the entrance to Vaughan Road and the medical centre.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Town Council has objected contrary to the Officer recommendation. The Area Manager in consultation with the chairman have considered this and have concluded that the application raises material planning issues and should be determined by Committee.

4.0 Community Representations

4.1 Consultee Comment

4.1.1 **SC Highways:** The previous scheme provided a betterment in terms of the access and this access is now in situ. Setting back the fence is welcomed. Requested information on betterment and staffing levels (since received). Requested a S106 contribution for administration of a traffic regulation order for parking restrictions at the new entrance and the adjoining highway.

4.1.2 **SC Conservation:** The general form and bulk of the development is similar to that previously approved where no conservation objections were raised. The amendments to the design are not considered to raise any further objection in conservation terms.

4.1.3 **Shropshire Fire and Rescue Service:** It will be necessary to provide adequate access for emergency fire vehicles. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advise that early consideration is given to this matter. The scheme will also require an adequate water supply for firefighting.

4.1.4 **SC Rights Of Way:** No comments.

4.1.5 **SC Ecology:** Suggested conditions for the provision of wildlife boxes and a lighting plan.

4.1.6 **SC Regulatory Services:** Suggested a construction management plan will be necessary to protect amenity during the construction phase. With regards to contaminated land, the previous reporting for the site cannot be relied upon and a condition has been suggested to require submission of a new risk assessment, remediation strategy and verification report to support the new scheme.

4.1.7 **SC Archaeology:** No comments in respect of archaeological matters.

4.1.8 **SC Drainage:** Suggested a condition for submission and approval of a surface water and foul drainage scheme and provided details of what it must contain.

4.2 Public Comments

4.2.1 **Cleobury Mortimer Town Council:** Objects on the grounds that the scheme will be overbearing on the townscape, it will overshadow nearby properties, the operational noise will impact existing residents, there is insufficient parking and there is a lack of green amenity space. Concerns are also raised with regards to the fire safety measures, surface water run off and land contamination.

4.2.2 **Cllr Gwilym Butler:** Concerned that the scheme is overdevelopment of the site and that the private amenity space of all neighbouring residential properties will be greatly challenged with the volume of windows directly looking into their properties. Also concerned that there is insufficient parking as Cleobury Mortimer has very little public transport and the Councillor does not believe that all the staff needs will be found within walking distance. This will result in staff having to park in local residential streets and car parks already under pressure.

4.2.3 Seven representations of objections have been received.

The grounds of objections are:

Overdevelopment: The building is more than twice the height of surrounding buildings. Future applications will see additional rooms being sited in the roofspace as detailed within the refused scheme.

Amenity: Significant concerns with overlooking and overshadowing. The site is split level. The building is 3 storeys on the lower ground but part of the two-storey element is on elevated land meaning the impacts are that of a three-storey building throughout. There is a lack of plans to demonstrate amenity. The residents have had the benefit of seeing the building constructed once and as such are acutely aware of the unacceptable impacts. Residents are concerned with the impacts of the scheme both at construction and the operational phase. Residents are also concerned that the unauthorised floodlights are still in situ from the previous scheme.

Lack of parking: Concerns raised with the validity of the information submitted with the application. The previous use did not operate at the level suggested. There are also concerns that there is no space for visitors to park which will lead to parking on an already busy main street. The suggestion that individuals will walk, cycle or use public transport to access the site is not believed.

Highway safety: The site will create a crossroads with a busy junction that serves a medical practice and residential estate. There is already congestion on the main street.

Contaminated Land: Concerns that this has not been dealt with adequately previously. The reports submitted with the application demonstrate this.

Flood risk: Concerns that the site has caused flooding to nearby uses previously

and won't be dealt with properly this time.

Lack of/Misleading information submitted with the application: The application has not fully detailed arrangement for waste collection.

Need: Suggested that the scheme will have little benefit to the Town and concerns raised that the need for the development has changed since the first time it was submitted but this has not been detailed within the submission.

- 4.2.4 One neutral representation has been received suggesting the provision of biodiversity enhancement.

5.0 THE MAIN ISSUES

- 5.1 Principle of Development
Design, Scale and Character
Built Heritage
Residential and Local Amenity Considerations
Highway Safety
Amenity Space and Landscaping
Ecological Considerations
Other Matters

6.0 OFFICER APPRAISAL

6.1 Principle of Development

- 6.1.1 The proposed site for the care home is within the development boundary of Cleobury Mortimer. It is opposite a medical centre and within a 500m walk from the town centre and its services.

- 6.1.2 Core Strategy policy CS3 and SamDev policy S6 name Cleobury Mortimer as a Key Centre in Southern Shropshire and recognise that it will be the focus for meeting the sub-regions local needs and providing services for sustainable growth. Core Strategy policy CS11 supports the provision of specialist housing, including residential and extra care facilities in such locations.

- 6.1.3 The site is therefore acceptable in principle as a suitable location for a care home following the Council's adopted development plan.

6.2 Design, Scale and Character

- 6.2.1 Core Strategy policies CS6 and CS17 require development to protect and conserve the built, historic and natural environment and be appropriate in scale, density, pattern and design taking into account the local context and character. SAMDev Plan policy MD2 requires that development contributes to and respects locally distinctive or valued character and existing amenity value.

- 6.2.2 The proposal is a single L shaped building on a split-level site, accommodating three storeys with staff facilities in the roof space on the lower parts of the site and

two storeys on the higher ground. The building will have a mixture of elevational treatments including white render, red/orange brick and green timber composite cladding. This mix of materials and the varying roof heights of the structure successfully break up the elevations and mitigate the overall massing of the structure.

6.2.3 The proposal would provide an attractive, modern building which would offer a suitable layout and standard of accommodation for the benefit of residents and staff. Subject to a condition to secure approval of final material choices, the proposal will successfully integrate into the local context in design terms.

6.2.4 The form of the building is almost identical to that which has previously been found to be acceptable by the planning authority. Nevertheless, there are concerns over the scale of the development which is discussed further below in relation to residential amenity, open space and car parking provision.

6.3 **Built Heritage**

6.3.1 SAMDev Plan policy MD13 requires that Shropshire's heritage assets are protected, conserved, sympathetically enhanced and restored.

6.3.2 A small part of the southeast corner of the site is in Cleobury Mortimer Conservation Area. The site is also to the rear of the existing buildings of No. 67, 68 and 69, High Street which are grade II listed dwellings that date to the 18th century.

6.3.3 The building sits behind existing houses fronting the A4117. Public views into the site will be largely through the access and from adjacent footpaths. The development will not be prominent or overbearing in the street scene and will not have a detrimental impact on the setting or character of the Conservation Area. Similarly, the proposal will not harm the settings of listed buildings within the vicinity of the site and no concerns are raised in this regard by the Council's Conservation Team.

6.4 **Residential and Local Amenity Considerations**

6.4.1 The site is bounded by existing residential development and seven letters of objection have been received expressing concerns about several amenity issues, including overlooking, overshadowing as well as the impact to amenity from both the construction and operational phases of development. Core Strategy Policy CS6 (Sustainable Design and Development Principles) states that development should safeguard residential and local amenity and SAMDev policy MD2 requires development to respond appropriately to the form and layout of existing development. Paragraph 2.15 of the Type and Affordability of Housing, Supplementary Planning Document (2012) states '*With newbuild, conversions and extensions to dwellings, the design, layout, parking, servicing and access should avoid detrimental impacts on neighbours, such as noise and disturbance, excessive traffic and overshadowing.*'

-
- 6.4.2 The care home will introduce a residential use next to existing one and two storey residential dwellings that surround the site. The proposed scheme has been carefully designed to reduce the number of habitable windows directly facing adjoining residential properties. However, where this does occur, suitable separation distances of over 21 m have been designed in to ensure that unacceptable adverse impact from overlooking will not arise.
- 6.4.3 It is inevitable that there would be the potential for some degree of overlooking into the gardens of the nearest residential properties and some potential for disturbance during the operational phase of the development with residents using the external areas as well as the comings and goings of staff and suppliers. However, this would not be of any greater extent than would reasonably be expected to occur between residential properties in a suburban environment such as that in which the site is located and would not warrant the refusal of the application on such grounds.
- 6.4.4 Furthermore, concerns about the potential for disruption from the construction phase can be mitigated through a construction management plan which should form a condition of consent. Whilst it recognised that neighbouring residents experienced disruption from the construction and demolition of the earlier care home and this is certainly regrettable, the conditions proposed will ensure that the planning authority has the mechanisms necessary to ensure that any breaches of the consent are enforceable, and this is a reasonable approach in the circumstances.
- 6.4.5 Overall, the proposal would not result in a material loss of amenity to an extent to cause demonstrable harm to the living conditions of occupants of nearby residential properties. As such, there would be no conflict with the provisions of Policy CS6 of the Core Strategy, Policy MD2 of the SAMDev or paragraph 2.15 of the Type and Affordability of Housing, Supplementary Planning Document (2012).
- 6.5 **Highway Safety**
- 6.5.1 Core Strategy policy CS6 requires that development is safe and accessible to all, whilst SAMDev policies MD2 and MD8 require schemes to demonstrate that there is either sufficient existing infrastructure capacity or measures to address a specific capacity shortfall which it has created.
- 6.5.2 The site will be accessed via the A4117(High Street). The access in situ was approved under the previous consent for the care home and considered to be appropriate to serve a 58 bed care home, the same as that now proposed. The current application will enable further improvements to the access with the removal of a section of fence that is currently restricting visibility. This can be controlled via planning condition.
- 6.5.3 The scheme proposes the provision of 22 car parking spaces whilst information submitted with the application suggest that there will be a maximum of 19 staff

members on site at anyone time. The previously approved scheme of the same scale of development secured 21 parking spaces. Shropshire Council does not have adopted parking standards but rather considers each application on its merits. Based on the information available, it would be difficult to sustain an argument that the scheme will result in a severe harm to highway safety because of a lack of parking, particularly considering its location within a key settlement.

6.5.4 The Highway Authority has suggested that a financial contribution is secured via a section 106 agreement to administer a Traffic Regulation Order which will facilitate the provision of parking restriction lines at the entrance and a section along the A4117. This will further allay concerns that the scheme will result in additional on-street parking to the detriment of highway safety.

6.5.5 Consequently, the proposal would not be materially detrimental to highway safety or the free flow of traffic on the local highway network. As such, there would be no conflict with Policy CS6 of the Core Strategy or policies MD2 and MD8 of the SAMDev plan.

6.6 Amenity Space and Landscaping

6.6.1 Under policy MD2, residential development should provide at least 30m² of open space per person. The scheme provides accommodation for 58 residents and as such would generate the need for 1,740sq.m of amenity space against this policy requirement. 1,464sq.m have been proposed with the scheme which is a similar level to that provided with the previously approved scheme (determined prior to policy MD2 being adopted).

6.6.2 Officers recognise that the scheme does provide opportunity for the external enjoyment of the residents and that, as stated in the DAS submitted with the application that '*Occupants of this form of specialised accommodation tend to spend considerable time indoors*' but that '*A comprehensive landscape design has been designed to ensure residents have pleasant, useable outdoor amenity space, a pleasant outlook from apartments and also help integrate the proposals into the surrounding environment.*' It is also recognised that there is a balance between providing sufficient onsite parking and the requirement for amenity space. Bearing all these matters in mind, the level of amenity space provided is appropriate to serve the proposed use and the landscaping proposals are also considered to be appropriate. A condition of consent will secure its implementation.

6.7 Ecological Considerations

6.7.1 The application form claims a 'de minimis' exemption from statutory Biodiversity Net Gain (BNG) on the basis that less than 25m² of on-site habitat would be affected by the development, and the Council's Ecology Team has not challenged this. It is also accepted that no protected or priority species or habitats would be affected, whilst ecological enhancements outside of BNG will be secured by condition in line with Core Strategy Policy CS17.

6.8 Other matters

6.8.1 It is recognised that concerns have also been raised regarding contaminated land, surface water drainage and fire safety. As noted within the consultation response from Shropshire Fire and Rescue Service, whilst it is useful to have consideration to fire safety requirements early on within the design process, they are ultimately a matter for Building Regulation approval stage.

6.8.2 With regards to contaminated land and surface water drainage, submission and approval of detailed schemes will form pre-commencement conditions of consent which is standard practice in the circumstances.

7.0 CONCLUSION

7.1 The proposal will provide a much needed care home in a sustainable location in the centre of Cleobury Mortimer. The siting, scale and design are acceptable and will enhance the appearance of the site without unacceptably affecting existing residential amenity.

7.2 Subject to the use of the suggested conditions and section 106 agreement, the scheme will result in a high quality and well considered development that accords with adopted planning policy.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

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

Core Strategy and Saved Policies:
CS3 The Market Towns and other Key Centres
CS6 Sustainable Design and Development Principles
CS11 Type and Affordability of Housing

CS13 Economic Development, Enterprise and Employment
CS17 Environmental Networks
CS18 Sustainable Water Management
MD2 – Sustainable Design
MD8 – Infrastructure Provision
MD12 – The Natural Environment
MD13 – The Historic Environment
Settlement S6 – Cleobury Mortimer

Cleobury Mortimer Neighbourhood Development Plan 2020-2038 (Adopted 2024)

Type and Affordability of Housing Supplementary Planning Guidance (2012)

RELEVANT PLANNING HISTORY:

14/00690/FUL Proposed 58 bedroom residential care accommodation, access, amenity space and associated works GRANT 26th November 2014
HEPRE/14/00136 Amendments to previously approved scheme LBCNRQ 18th August 2014
14/03774/AMP Non Material Amendment for planning permission 09/01972/FUL for the conversion of office to two dwellings GRANT 18th September 2014
17/01262/DIS Discharge of Conditions 3 (materials), 4 (access details) 5 (construction method statement) 6 (site investigation report) 7 (drainage) 8 (archaeology) and 9 (landscaping) for planning application number 14/00690/FUL DISAPP 8th November 2017
17/05193/AMP Non-material amendment to planning application number 14/00690/FUL GRANT 27th November 2017
18/01438/FUL Erection of a plant room with heating exchange units for ground source heat pump system GRANT 9th July 2018
20/04238/DIS Discharge of Conditions 10 (Walls/Fences/Hedges) and 11 (External Lighting) associated with planning application number 14/00690/FUL DISPAR 26th November 2020
21/03600/DEM Prior Approval under Schedule 2, Part 11 Class B of the Town and Country Planning (General Permitted Development) Order 2015 for the demolition of 61 bed Nursing Home complete with removal of all below ground foundations, retaining walls and services including removal of all hard and soft landscaping and car parking
Note: boundary fencing and walls to be retained. Fenced bin store to be retained. Access to site retained. PRQ 23rd August 2021
21/05132/DEM Application for Prior Approval under Schedule 2, Part 11 Class B of the Town and Country Planning (General Permitted Development) Order 2015 for the demolition of 61-bed nursing home; removal of below ground foundations, retaining walls, services and hard and soft landscaping; retention of car parking, access and boundary fencing/walls GRPCR 8th December 2021
23/03056/FUL Proposed 75 bedroom residential care accommodation, access, amenity space and associated works REFUSE 5th October 2023
24/03787/FUL Proposed 58 bedroom residential care accommodation, access, amenity space and associated works (Resubmission of 23/03056/FUL) PCO

11. Additional Information

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Cleobury Hills

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SKOVNRTDKQK00>

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 Gwilym Butler
Cllr Simon Harris

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

STANDARD CONDITION(S)

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

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

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

3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- Hours of working
- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works
- any temporary lighting required for the construction phase

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

4. ' Risk assessment

a) No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK

guidance.

' Submission and implementation of remediation scheme

b) Where the approved risk assessment (required by condition a) above) identifies contamination posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such contamination has been submitted to and approved in writing by the Local Planning Authority. A validation and verification plan must be formulated, form part of the remediation scheme and be approved by the Local Planning Authority. Following approval, such remediation scheme shall be implemented on site in complete accordance with approved details unless otherwise agreed in writing by the Local Planning Authority.

' Verification of remediation scheme

c) Following implementation and completion of the approved remediation scheme (required by condition b) above) and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

' Unforeseen contamination

d) In the event that further contamination is found at any time when carrying out the approved development - that was not previously identified - it must be reported in writing immediately to the Local Planning Authority and no further development shall be carried out. Following this, an investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

Reason: To ensure that the risks associated with any contamination have been reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with the National Planning Policy Framework.

5. No development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme must be fully implemented before the development is first brought into use.

Reason: To ensure that the means of surface and foul water disposal are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of flooding beyond the site boundaries as a result of the development.

6. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

7. No development shall take place until the existing timber fence within the application site is set back from the A4117 highway in order to achieve a 60 metre visibility splay in a westerly direction from a 2.4 metre set back at the access junction in accordance with drawing number 25377-04-VIS, titled Proposed Western Visibility Improvements by DTA, Dated Nov 24. Nothing shall be erected, planted or allowed to grow within the application site area that would obstruct the newly formed visibility splay for the lifetime of the development.

Reason: In the interests of highway safety during the construction and operational phases of the development.

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

8. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon residential amenity for neighbouring residents or upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note GN08/23: Bats and Artificial Lighting At Night, GN01/21: The Reduction of Obtrusive Light and Guidance Note 9/19: Domestic exterior lighting: getting it right. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To minimise disturbance to neighbouring residents and to bats, which are European Protected Species.

9. Prior to first occupation / use of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site prior to the first use of the development:
 - A minimum of 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
 - A minimum of 1 artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).
 - A minimum of 3 swift bricks. Bricks should be positioned: 1) Out of direct sunlight; 2) At the highest possible position in the building's wall; 3) In clusters of at least three; 4) 50 to 100cm apart; 5) Not directly above windows; 6) With a clear flightpath to the entrance; and 7) North or east/west aspects preferred. (See <https://www.swift->

conservation.org/Leaflet%204%20-%20Swift%20Nest%20Bricks%20-%20installation%20&%20suppliers-small.pdf.)

The boxes shall be sited at an appropriate height above the ground, with a clear flight path and where they will be unaffected by artificial lighting. Bat boxes should be erected on southerly aspects (south-west, south or south-east) and bird boxes should be erected on northerly or shaded east/west aspects. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 180 of the NPPF.

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

10. The premises shall be used for residential care accommodation for the elderly and for no other purpose including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In order to maintain control over the future use of the premises in order that the parking requirements and amenity issues of an alternative use can be assessed.

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

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

12. The development hereby permitted shall not be brought into use until the car parking shown on the approved plans has been provided, properly laid out, hard surfaced and drained, and the space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate car parking, to avoid congestion on adjoining roads, and to protect the amenities of the area.

13. Demolition or construction works must not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on

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Cleobury Hills

Sundays or Bank Holidays.

Reason: In order to maintain the amenities of the area.

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Agenda Item 7

SCHEDULE OF APPEALS AS AT COMMITTEE 17 December 2024

LPA reference	24/02579/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
Date of appeal	20.11.24
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	24/01692/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Kr Scott Marnick
Proposal	Proposed new bungalow
Location	Proposed Dwelling To The South Of Millar Row Off Ludlow Road Craven Arms Shropshire
Date of appeal	25.11.2024
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	24/03342/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr P Inions
Proposal	Erection of single storey rear extension following demolition of existing conservatory and erection of a ground and lower ground level incidental outbuilding providing garaging and gym facilities
Location	Hall Cottage Folley Road Ackleton Wolverhampton Shropshire WV6 7JL
Date of appeal	02/12/2024
Appeal method	Written representations – Fast Track
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	23/00609/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Jake Malcolm
Proposal	Formation of site access (re-submission)
Location	Proposed Dwelling To The West Of Friars Street Bridgnorth Shropshire
Date of appeal	17.10.2023
Appeal method	Written representations
Date site visit	28.08.2024
Date of appeal decision	02.12.2024
Costs awarded	No
Appeal decision	Dismissed



Appeal Decision

Site visit made on 28 August 2024

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2024

Appeal Ref: APP/L3245/W/23/3330534

Previously The Rock House, 4 Granary Steps, Bridgnorth, Shropshire, WV16 4BL

- 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 Jake Malcolm against the decision of Shropshire Council.
 - The application Ref is 23/00609/FUL.
 - The development proposed is Access to site.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Jake Malcom against Shropshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appellant has submitted a number of documents in support of the appeal, which were not submitted prior to the Council's determination of the application, including a speed survey, Geotechnical Stability Assessment Report (dated August 2023) and proposed vehicular access arrangement highway safety assessment. The Council has raised concern regarding the acceptability of the additional information and has drawn my attention to appeal decision APP/L3245/W/23/3320163, where revised plans, which included a different 'red line' boundary and alterations to the design and layout of the dwellings were proposed.
4. The Inspector found in that case, that accepting the revised plans may unacceptably prejudice the interests of interested parties. While I have had regard to the aforementioned case, the information submitted by the appellant is intended to address the Council's concerns, rather than alter the appeal scheme. The Council and interested parties have had the opportunity to comment on the information submitted through the appeal. The fact that it has chosen not to is a matter for the Council. Given the above, I shall take the evidence submitted into account in my consideration of the appeal.
5. The appellant requested a hearing with a view to asking a geologist to provide an explanation and evidence of the difference between the stability of sandstone and the roofs of caves, which have deteriorated over time. However, while the matter is technical, I consider it can be determined on the evidence before me, without the need for testing through questioning.

Main Issues

6. The main issues of the appeal are the effect of the appeal scheme on:
- The character or appearance of the Bridgnorth Conservation Area (the BCA);
 - Land stability;
 - Highway safety; and
 - The living conditions of nearby occupants, having regard to light from vehicles exiting the site and the provision of on street parking bays.

Background

7. Planning permission was granted on 16 March 2017 for a dwelling and garage at the appeal site. The appellant advises that, at the outset, it was proposed to access the site using a car lift to the dwelling at the top. However, this element was withdrawn, seemingly at the suggestion of the Council, as it could not be persuaded that the structural stability of the cliff/land and neighbouring caves would not be affected by the proposed access arrangements.
8. Notwithstanding the withdrawal of the access arrangements, the appeal site benefits from planning permission for the erection of a dwelling and a garage. During my visit, I saw that construction works have begun on the site and whilst I make no determination as to whether or not they have lawfully begun, I see no reason why the dwelling would not be constructed in accordance with the planning permission. In 2020, an application for a tunnelled access was made. However, the Council requested further information which, the appellant suggests as a result of Covid, was delayed and the application 'cancelled'. The appeal scheme has been submitted instead of the 'lift' and 'tunnel' scheme, neither of which has been approved and neither of which is before me.

Reasons

Character or appearance

9. The appeal site is located within the Bridgnorth Conservation Area (the BCA). Bridgnorth is a historic settlement largely built on an outcrop of sandstone, which straddles the River Severn, with the design and layout of development heavily influenced by its topography. The sandstone is identified as the Bridgenorth Sandstone Formation, which has a characteristic red hue. Exposed, weathered red sandstone is visible throughout the BCA and makes a significant contribution to its character and appearance.
10. In my view, the significance of the BCA is derived from the historic layout of development, the geology of the area and the large number of buildings of special architectural and historic interest.
11. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Furthermore, paragraph 205 of the National Planning Policy Framework (December 2023)(the Framework) states that when considering the impact of a proposed

development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

12. Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy (2011)(the CS) seeks to protect, restore, conserve and enhance the built and historic environment, amongst other things. Policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan (2015) explains that for a development proposal to be considered acceptable it is required to respond appropriately to the form and layout of existing development. Policy CS17 of the CS and policy MD 13 of the SAMDev Plan both seek development which protects and enhances the local character of Shropshire's historic environment.
13. The appeal site comprises an area of sloping land (west to east) on a prominent hillside being the steeply sloping valley side of the River Severn which passes beneath the rocky outcrop upon which that part of the town of Bridgenorth known as High Town is situated. It consists of two relatively level sections separated by a steep outcrop of rock. On the lower section is the remains and cellar of a dwelling which was condemned and demolished around 1950.
14. There is a substantial difference between the level at which Friar Street sits and the level at which the approved dwelling is being constructed. Where the site faces Friar Street, significant sections of the rock face are bound by brick walls. It is suggested that these are retaining walls which were constructed by the Council following the collapse of caves in around 1995. Between the brick walls, a section of sandstone remains exposed, which makes a positive contribution to the character and appearance of the BCA.
15. The appeal site is currently accessed via a series of steps from Friar Street. Although some properties within this part of the BCA have off road parking, I saw that a significant number do not. The topography and historic layout of development has also resulted in a number of properties which are not directly accessible by vehicle.
16. The appeal scheme comprises an access road which would be cut into the rockface and snake round, leading up to the approved dwelling. The access would enable vehicles to access the approved dwelling and garage from Friar Street and would enable occupants of the dwelling to park their vehicles off road. Visitors to the site would also be able to use the access and could use off road parking within the site.
17. Although I saw there are other accesses along Friar Street, the cutting into the rock would appear a significant feature in the streetscene, which is not characteristic of the area. While there are exposed sections of sandstone throughout the BCA, the cutting proposed is more typical of a quarry or major road construction, not an individual access to a residential dwelling. I acknowledge that the retaining walls do not make a positive contribution to the character and appearance of the BCA, however, these walls would remain *in situ*.
18. While the overall extent of sandstone which would be exposed is greater, in my view the works would create an engineered feature which is not characteristic of the area, and which would harm the character and appearance of the BCA. Moreover, given the nature of the rock, it is likely that, over time, measures to

- address any rock fall from weathering are likely to be required. Such measures are likely to have a harmful effect on the character and appearance of the BCA.
19. I saw that Number 54 is served by a garage, which fronts onto Friar Street, however, this is not comparable to the appeal scheme before me, which consists of a substantial cutting into the rock face. Indeed, I saw various examples of off-road parking in the BCA and within Friar Street itself. However, these are also not comparable to the appeal scheme before me in their design or layout.
 20. I note that English Heritage did not object to the appeal scheme. However, it does not appear to have been consulted on the application. The lack of objection from English Heritage is a neutral factor in my consideration of the appeal scheme.
 21. Paragraph 195 of the Framework states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance. The appeal site occupies a prominent location along Friar Street and the entrance to the proposed access would be highly visible from the public domain. Given the limited size of the site relative to the BCA as a whole, I consider the harm to be less than substantial harm to the significance of the BCA.
 22. Paragraph 208 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
 23. It is suggested that in restoring a significant element of this site off Granary Steps to its historic layout, it makes a positive contribution to the historic character of the area. However, the appeal before me is concerned with the access and not the dwelling. Irrespective of the outcome of this decision, it would be possible for the appellant to construct the dwelling and, since there is pedestrian access to the site, use the dwelling as it was intended.
 24. I recognise it would not be possible for vehicles to access the garage and so the appeal scheme would facilitate its use for its intended purpose. It may also make it easier to construct the dwelling and garage, by enabling materials to be brought to and from the site by vehicle. These are matters which weigh in support of the appeal scheme and are matters to which I afford moderate weight.
 25. Overall, the benefits advanced by the appellant do not, in my view, outweigh the harm to the BCA, the conservation of which I attribute great weight to. Thus, I find the appeal scheme conflicts with policies CS6 and CS17 of the CS and policies MD2 and MD13 of the SAMDev Plan, the requirements of which are set out above, and is contrary to the expectations of the Framework.

Stability

26. The Framework advises that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability...and adequate site investigation information, prepared by a competent person, is available to inform these assessments. As set out above, much of Bridgnorth is constructed on sandstone. Indeed, the approved dwelling will be constructed on the very sandstone it is proposed to cut into.

27. The Council advise that the rock face has previously collapsed in this location, resulting in rockfall and the subsequent closure of Friar Street for 18 months, while remedial work was undertaken. It is therefore understandable that the Council, as well as interested parties, have concerns regarding the stability of the appeal site and the effect of the appeal scheme on neighbouring properties and Friar Street as a result.
28. Cutting into the rock would expose a greater surface area, which would erode and weather over time. Throughout the area, I saw examples of exposed sandstone, with weathering evident. The access road would slope upwards and snake round, to allow for the height differential between Friar Street and the approved dwelling. In support of the application, the appellant has submitted an Initial Geotechnical Investigation, a Georisk Management Report and, following the refusal of the application, a Geotechnical Stability Assessment Report.
29. The Initial Geotechnical Investigation (the IGI) considered stability of the site in relation to a proposed tunnel, rather than the access which is currently proposed. The report concluded that the proposed development will not significantly increase overall site slope angles and should not adversely affect the stability of land and properties within the vicinity of the site.
30. The report considered possible interaction between the proposed tunnel route and historic caves and suggested that consideration should be given to adjusting the proposed route of the tunnel such that the curved sections are moved at least about 5m to the west. The proposed access road would be located further away from the western extent of the cave than the tunnel scheme considered within the IGI. However, the entrance would remain in a similar position and, rather than extending the wall either side of the opening into the site, as indicated in the IGI, the sandstone would be exposed.
31. Given the proximity of the proposed entrance to the cave, it is possible that some sort of works would be required to ensure its stability. An interested party suggests that caves exist on both sides of the proposed entrance and that the retaining walls are back filled with concrete. The report also notes that there may be a cave to the north of the entrance and suggests that, prior to final design, it would be prudent to confirm that the deeper part of the cave to the north does not extend further to the south.
32. Although I have no substantive details regarding the construction of the walls, in my experience works of this nature are only carried out where they are necessary due to the costs involved. As such, it seems likely that the retaining wall to the north of the proposed access would have been constructed to address instability in that part of the site, most likely caused by a cave or cavity of some sort.
33. The Georisk Management Report (GMR) details the taking of three boreholes within the site, to a depth of around 15m. The sandstone is identified as typically very weak to weak. In terms of excavating the rock, it is concluded that it could be excavated by hard digging or easy ripping. The author of the report acknowledges that the construction of the access road will result in relatively steep side slopes in rock and suggests that from observations of sandstone exposures in the local area, this should not be an issue of concern in terms of long term rock slope stability.

34. The author of the GMR also advises that appropriate health and safety measures should be put in place during construction, with particular attention being paid to the cave which is believed to be present to the rear of the existing brick retaining wall.
35. The Geotechnical Stability Assessment Report (the 2023 report) makes similar recommendations, advising that special attention should be paid when excavating in the vicinity of known cavities within the sandstone rock mass. It advises that two small caves are located in the approximate centre of the site, that it is understood there is another cave located behind the south brick retaining walls which forms part of the Friar's Street boundary and that there is also a small area of brick facing at the base of the rock face which, it is assumed, covers up a small excavation entrance.
36. The 2023 report makes a number of recommendations, including that special attention should be paid when excavating in the vicinity of known cavities within the sandstone rock mass. It is suggested that it may be necessary to infill any cavities exposed within the cutting faces with mass concrete. Such works are likely to have a visual effect on the BCA, though the extent to which it is visible from outside of the site will depend upon their precise location. Given the likely location of a cave behind the wall fronting Friar Street, such works may well be visible from the public domain.
37. The author of the 2023 report advises a watching brief is carried out throughout the excavation process to identify any weaknesses in the rock face which may result in localised rock failure. The author of the report also recommends the implementation of a long term monitoring/maintenance programme, along with the incorporation of a catch ditch at the toe of the rock faces such that any weathering debris may be readily collected.
38. I don't doubt that it would be possible to construct the proposed access track within the sandstone. However, measures which may be required, such as the filling of any cavities exposed within the cutting and the use of remedial stabilisation works are likely to have a visual effect on the BCA. There is uncertainty as to exactly what measures would be required and, as a result it is unclear what the visual effect on the BCA would be.
39. While the author of the 2023 report suggests stabilisation works are not considered necessary at this stage, given the nature of the material and the surface area that would be exposed, I consider it likely that some sort of works would be required over time. Indeed, During my visit, I saw signage by the sandstone exposure along Underhill Street warning of possible falling rock. I also saw netting used along the escarpment above properties along Underhill Street, presumably to catch falling rock.
40. The extent to which such measures can be seen from outside the site will depend upon the measures chosen and the part of the face which it is required to address. Although it would be possible to include a condition to address unexpected land instability issues, this introduces uncertainty as to the likely visual effect of the appeal scheme. This is not something which can, in my view, be left to condition, but should be understood prior to determination so that the likely effects on the BCA are properly understood.
41. Since it would not be appropriate in this case to secure a scheme by condition, it would not be possible to ensure that the risks arising from any land

instability would be adequately addressed. This is contrary to policy CS6 of the CS, which seeks development which is safe and policy MD2 of the SAMDev, which seeks good standards of construction.

Living conditions: Parking and vehicle headlights

42. The proposed access would be located opposite to the rear of Nos 8-10 Southwell Riverside. The Council raised concern regarding the potential for the amenity of the occupants of the properties to be adversely affected by car headlights pointing directly at the properties when exiting the site.
43. Although vehicles exiting the site would be travelling at a slightly elevated position relative to the road as they turn the corner to be perpendicular to Friar Street, the rear of Nos. 8-10 are bound by a brick wall which would significantly limit the amount of light reaching the properties within. Furthermore, given the access would serve a single property, the number of vehicles using the site, particularly at night, is likely to be limited.
44. As a consequence, I consider any glare from vehicle headlights would not significantly harm the living conditions of occupants of these dwellings and there would be no conflict with policy CS6 of the CS in this regard, which seeks to safeguard residential amenity, amongst other things.
45. Parking in this part of the town is via a permit. Adjacent to the appeal site is a parking bay which can accommodate up to 4 cars (the appellant has provided a photograph which shows that 4 cars are parked within the bay). To enable vehicles to access the proposed road, at least two of the parking spaces would need to be removed.
46. The appellant suggests that once the dwelling has been built, its occupiers would be entitled to 2 permits and could therefore park cars in 2 of the 4 spaces in front of the proposed access and leave them there. While it is unlikely that the occupants would leave 2 vehicles in the spaces all day, every day, and eligibility for parking permits may change¹, the provision of off-road parking for the appeal site is likely to off-set the loss of those parking spaces to a certain extent.
47. The appellant has proposed the provision of a commuted sum to the Council to provide 2 spaces elsewhere in Bridgnorth. The document is not signed, and the Council advise that it has not been party to it. Further, the Council advise it does not consider the submitted section 106 agreement is the correct mechanism to compensate for the loss of the parking bays. In this case, given the limited effect on the actual availability of on-street parking, I consider the proposed obligation is unnecessary to make the development acceptable in planning terms.
48. For the reasons given above, I find the appeal scheme would not harm the living conditions of nearby occupants having regard to parking provision and vehicle headlights. There is therefore no conflict with policy CS6 in this regard, which seeks to safeguard residential amenity.

¹ A number of interested parties suggest that in the future, the number of permits a property is eligible for may be reduced.

Highway safety

49. Friar Street is a one way street of limited width, which slopes down towards the appeal site from Cartway. On-street parking is provided in marked bays, which are generally located on the same side as the appeal site. During my visit, the road appeared lightly trafficked, with the vehicles I did see using it travelling at limited speed.
50. The appellant has submitted a highway safety assessment in support of the appeal scheme. The assessment identifies that traffic speed along Friar Street is generally low and that vehicles follow a certain path past the parking bay, both when it was occupied and when it was empty. Because vehicles follow this path, a visibility splay of 2.4m by 21.7m could be achieved towards the south.
51. I note the Council refers to the lack of details regarding construction of the access road. However, it would be possible to secure the submission of a Construction and Traffic Management Plan via condition. As such, I do not consider this would be a reason to dismiss the appeal.
52. The number of movements that would be generated by a single dwelling is likely to be modest. Given that Friar Street is one way, the low speed at which vehicles are likely to be travelling and the visibility splay which would be provided, I consider the proposed access is unlikely to harm highway safety and that there would be no conflict with policy CS6 of the CS, which seeks development which is safe and accessible to all and the expectations of the Framework in this regard.

Other Matters

53. The appellant points out that planning permission is not always required for an access off an unclassified road. However, there is no suggestion that the appeal scheme would be development which is permitted by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended). I am therefore unable to afford this matter weight.

Conclusion

54. While I have found there would be no harm to the living conditions of nearby occupants, or highway safety, I have found the appeal scheme harms the character and appearance of the BCA and that risks arising from land instability cannot be addressed by condition. Thus, for the reasons given above, I find the appeal scheme conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken otherwise in accordance with the development plan.

M Savage

INSPECTOR



Costs Decision

Site visit made on 28 August 2024

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2024

Costs application in relation to Appeal Ref: APP/L3245/W/23/3330534

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Jake Malcolm for a full award of costs against Shropshire Council.
- The appeal was against the refusal of planning permission for a proposed access to the site.

Previously The Rock House, 4 Granary Steps, Bridgnorth, Shropshire, WV16 4BL

Decision

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

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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive. The PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications.
4. The main thrust of the applicant's case is that the Council was unreasonable in refusing the application, which has prevented and delayed development which should clearly be permitted having regard to its accordance with the development plan, national policy and all material considerations.
5. The applicant suggests that the Council acted unreasonably in deciding to make the application 20/02274/FUL "not proceeded with". However, the appeal before me was submitted in respect of application 23/00609/FUL, not 20/002274, which was not appealed. An award of costs can only be made in respect of costs incurred in the appeal process.
6. The applicant has raised concern that the Council did not seek the opinion of an outside consultant on the issue of stability, and that the Council is still arguing that the appeal should be dismissed on this basis.
7. The PPG advises that failure to deal with the effects of land stability could cause harm to human health, local property and associated infrastructure and that **applicants** (my emphasis) should ensure that any necessary

- investigations are undertaken to ascertain that their sites are and will remain stable or can be made so as part of the development of the site.
8. Previous issues with the land have resulted in the closure of Friar Street, as well as rock fall. I therefore consider the Council's concerns are justified, given the previous collapse of part of the site. Although the assessments provided all consider the likely stability of the sandstone itself, consideration of caves and/or cavities within the site is limited and the reports all make recommendations, which could affect the final appearance of the access road.
 9. As set out within my decision letter, whilst I don't doubt that an engineering solution could be found to enable the proposed access to be constructed, given its location within a conservation area and the proximity of the site to the highway and adjacent properties, I consider the Council was not unreasonable in requesting such information. Moreover, I have found that it would not be appropriate to address any issues of stability by condition and that the appeal, in this regard, should fail. It therefore follows that I do not consider the Council was unreasonable in refusing the application in this regard.
 10. With regard to highways, the applicant suggests that it is unreasonable that the Council's highways department request for further information took four months and was provided 8 days before the date of the decision notice, denying the applicant the opportunity to provide the information said to be missing on visibility splays. The applicant has provided me with comments provided on behalf of the highway authority in respect of application 15-05277-FUL, which stated 'no objection' subject to the inclusion of conditions. However, this is in relation to a different scheme, and the Council is not bound by the recommendation then made.
 11. The information provided through the appeal was, in my view, necessary to demonstrate that a satisfactory access with sufficient visibility could be achieved. While I have found there would be no harm to highway safety, I consider the Council was not unreasonable for refusing the application on the basis of the information submitted at the time of its determination. I note the applicant has submitted a draft legal agreement through the appeal. The Council advise that it did not request the submission of a section 106 agreement and so I do not consider the Council was unreasonable on this basis.
 12. With respect to the Conservation Area, the Council has set out its position clearly within its decision notice and officer report and has provided further explanation through the appeal. Contrary to the applicant's suggestion, I do not believe the Council has refused the application simply because historically there was no access. Its comment in this regard appears to be questioning the justification for providing a new access. Significantly, as can be seen from my decision letter, I have found that the proposed access would harm the character and appearance of the Conservation Area. As such, I do not consider the Council was unreasonable for refusing the application on this basis.
 13. With respect to the effect of parking on living conditions, the Council suggests that the Numbers 8-10 Southwell Riverside do not have off street parking, due to remains of the former Franciscan Priory. However, the applicant has drawn my attention to off-street parking which they say is available for the occupants of these properties and a representation from the occupant of No 10 clearly states they do have off road parking.

14. While it seems the Council is therefore incorrect in this regard, a number of interested parties have raised concern regarding the loss of the parking spaces. There are a number of other properties in the area which do not have access to off-road parking and, as I saw during my visit, on-street parking is well used. Although I have found there would be no significant harm in this regard, this was based upon a matter of judgement. The Council has exercised its own planning judgement in this regard and so I do not consider the Council was unreasonable in identifying it as a reason for refusal.
15. With respect to living conditions of occupants of Nos 8-10 Southwell Riverside, given the proximity of the site to the rear of these properties, despite the presence of a boundary wall, light from vehicles is likely to be perceptible to occupants of those properties. While I have found that vehicles exiting the access at night would not significantly harm the living conditions of occupants of Nos 8-10 Southwell Riverside, this is also a judgement I have made based upon the evidence before me and my inspection of the site. The Council has exercised its own planning judgement in this regard, and so I do not consider it was unreasonable for refusing the application on this basis.
16. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

M Savage

INSPECTOR

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