

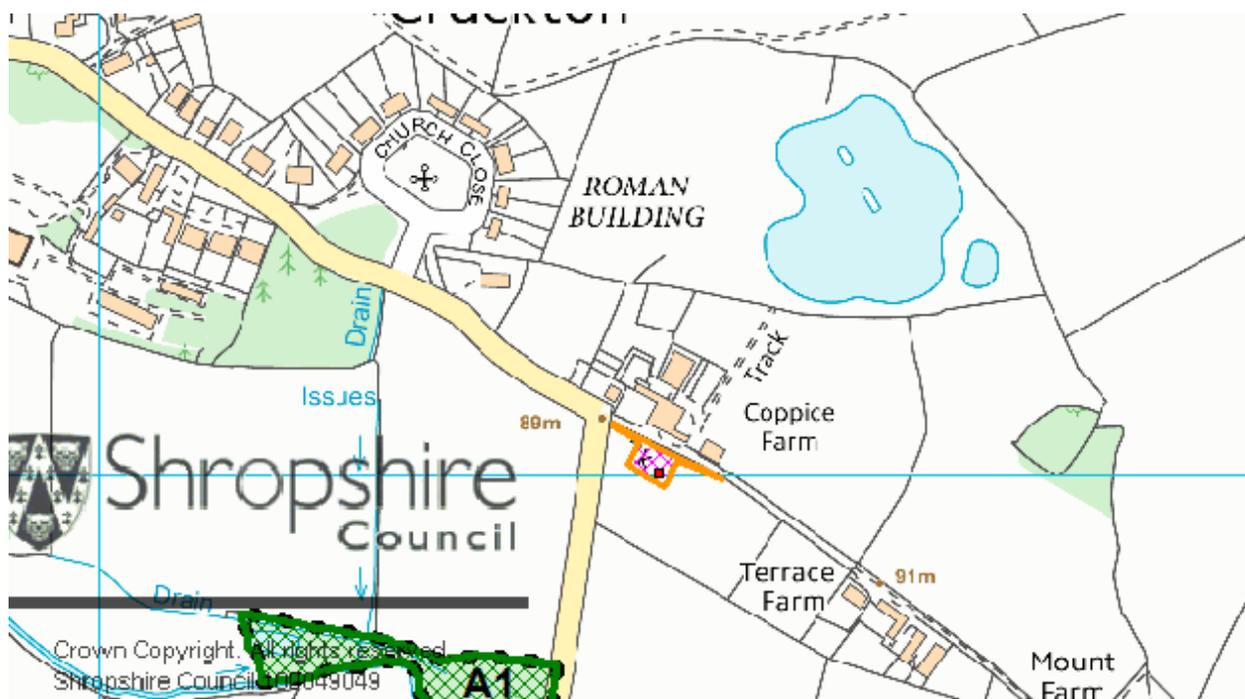
Development Management Report

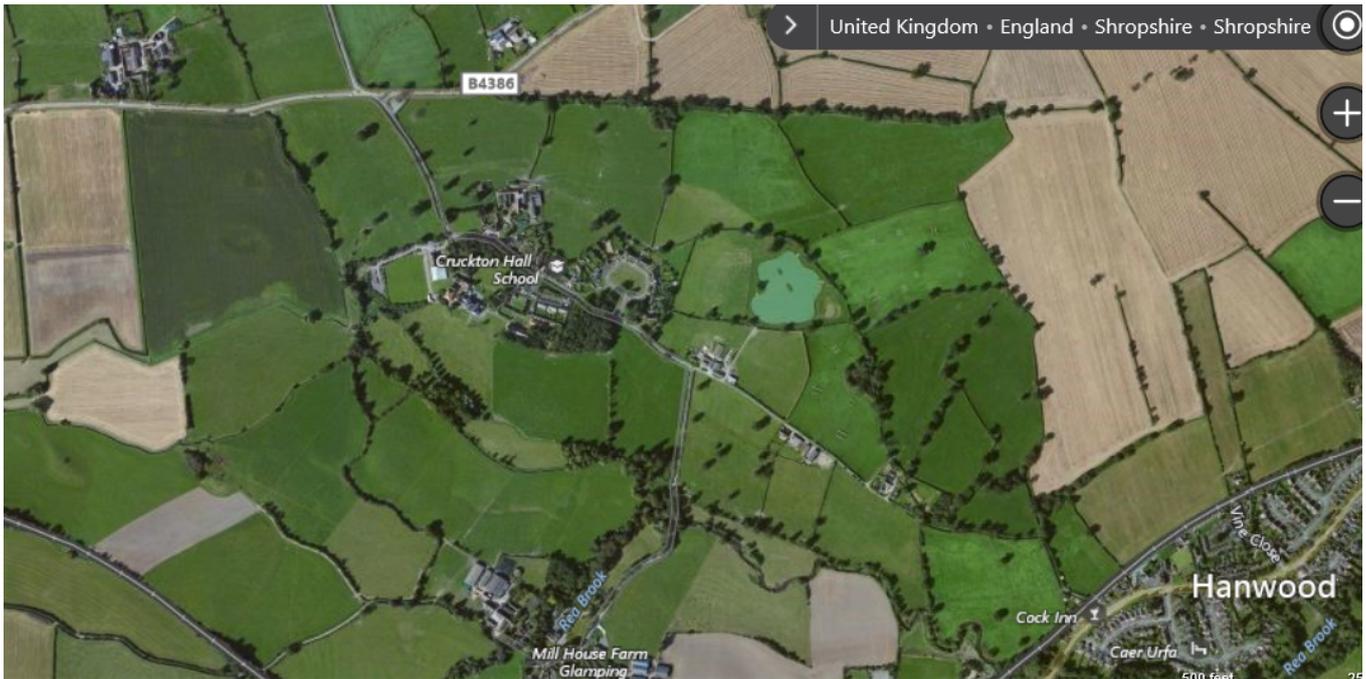
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Summary of Application

<u>Application Number:</u> 17/05333/FUL	<u>Parish:</u>	Pontesbury
<u>Proposal:</u> Erection of an affordable dwelling, associated garage and installation of septic tank		
<u>Site Address:</u> Proposed Affordable Dwelling NW Of Terrace Farm Cruckton Shrewsbury Shropshire		
<u>Applicant:</u> Mr G Gaskell		
<u>Case Officer:</u> Alison Tichford		<u>email:</u> planningdmc@shropshire.gov.uk

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**Recommendation: - Refuse**

Recommended Reason for Refusal

The proposed development is in an inappropriate location for an exception site dwelling due to the following:-

- The proposed site cannot be considered to be within or adjacent to the named settlement of Cruckton, clearly falling within the rural landscape rather than the settled area.
- Development of the site would adversely affect the local historic and rural character as well as the local landscape and would
- have detrimental impact on visual amenity
- diminish the local distinctiveness
- respond inappropriately to the form and layout of existing development
- The site is accessed from a public bridleway, and sits very close to existing agricultural buildings and may not be considered as a suitable location for the provision of an affordable dwelling in perpetuity.

This proposal for a dwelling in this location would therefore be contrary to the overall development strategy for the area and fall outside policy requirements within CS11 and the Type and Affordability of Housing Supplementary Planning Document 2012, as well as CS6, CS17, SAMDev, MD2, and MD13.

Officers acknowledge that the proposal may be able to satisfy policy in terms of drainage, impact on heritage assets, ecology, trees, highways, and rights of way issues, but these do not outweigh the objection to the principle and location of the development.

The application is recommended for refusal.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks full planning permission for the erection of an affordable exception site three bedroomed home providing 100 sq. m gross internal floor space, a detached double garage, septic tank and associated curtilage space. The application site is 0.10ha appx.
- 1.2 The dwelling will consist of a two storey house with porch, an entrance hallway, living room, kitchen / diner, bathroom, and three bedrooms one of which is en-suite, with a single storey addition comprising a utility and wet room with side porch. A detached double garage with dual pitched roof is also proposed.
- 1.3 Revised plans have been received during the course of the application which have altered the proposed size and layout of the plot and the height and design of the dwelling and garage.
- 1.4 In September 2017 a similar proposal on land east of Terrace Farm was refused by committee, (17/02233/FUL).
- 1.5 A proposed poultry unit has recently been refused permission in fields immediately south of the proposed site. (18/00586/FUL)

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located to the south east of the small rural settlement of Cruckton, and is a defined plot within an existing pasture field north west of Terrace Farm. The field lies on the south side of a bridleway, and opposite Coppice Farm to the north.
- 2.2 Previous development at Terrace Farm has included the conversion of Terrace Farm's stable block to ancillary residential accommodation (permission granted 2002).
- 2.3 The grade II listed Church of St Thomas and Roman Villa Scheduled Ancient Monument are located approximately 200 metres to the north west of the proposed site with other designated assets located further to the north west and a further distance away to the South.
- 2.4 The site is accessed from a registered bridleway accessed itself from the C classified Cruckton Crossroads to Cruckmeole Road, and is approximately 820 metres to the north west of the village of Hanwood.
- 2.5 Historic mapping indicates that there was no development along this bridleway until the 20th century, and there now appear to be 3 separate properties, perhaps originally established as small holdings. Coppice Farm lies 200m appx. to the north

west of Terrace Farm, and immediately opposite the newly proposed site. Permission was granted here in December 2016 for a single plot exception site affordable dwelling south east of the farm buildings. Mount Farm lies 200m appx. to the south east of Terrace Farm, and was granted permission in 2007 for the conversion of redundant buildings to ancillary accommodation.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Pontesbury Parish Council, supported by the Local Member, have submitted a view contrary to Officers recommendation for refusal based on material planning reasons where these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions

4.0 COMMUNITY REPRESENTATIONS – full comments can be viewed on the planning record

4.1 Consultee Comments

- 4.1.1 SC Flood and Water Management
Informative advice provided.

- 4.1.2 SC Affordable Housing
Comments indicate that, on the basis that Mr Gaskell's circumstances have not changed since approval in March 2017, the eligibility requirements of the Supplementary Planning Document in relation to the build your own affordable home scheme have been satisfied.

- 4.1.3 SC Ecology
No objection, but conditions as to bats/bird boxes and lighting plans, and informative advice, proposed.

- 4.1.4 SC Highways
No objection – subject to the development being constructed in accordance with the approved details and compliance with recommended conditions as to completion of parking and turning areas. Informative advice was also provided.

- 4.1.5 SC Rights of Way
Commented as follows:

The definitive line of BW 85 runs down the lane from which the proposed access into the new development will leave and which is being used as private access to the other properties. A Bridleway allows the public to use this route on foot, horseback and cycle and does not carry public motorised vehicular rights. The applicants are advised to satisfy themselves that they are able to demonstrate a sufficient vehicular right of access before committing further resources to the proposal. From the plans provided it appears that the bridleway will not be directly affected by the development.

Informative advice has been provided.

4.1.6 SC Trees

Commented that the wider site contains a significant tree, but that there would be sufficient distance between this tree and the property to ensure that they could be retained and protected through the development and into the future without significantly impacting on residential amenity. Conditions were suggested to ensure no damage would occur to trees on site.

4.1.7 SC Archaeology

Comments indicated satisfaction that the proposed dwelling would not affect the setting or significance of the nearby Scheduled Monument, and that the proposed site itself is not considered to hold archaeological interest.

4.1.8 SC Conservation

No objections

4.1.9 SC Public Protection

Provided comments indicating that farming practices at Coppice Farm opposite the site might have the potential to be noisy at unsociable hours of the day, and produce odours, and that this should be given appropriate weight when considering the question of the attractiveness of the dwelling as an affordable home in perpetuity.

4.2 Public Comments

4.2.1 Parish Council

The Parish Council strongly supported the previous application 17/02233/FUL, which was refused by Shropshire Council, and in principle supports this new application but prefers the site as proposed under the previous application. The previous site by Terrace Farm was supported by the community and the Parish Council and the interpretation of the Planning Policy relating to named settlements for this applicant should be reconsidered. There are local concerns about the height of the proposed dwelling on this site and this should be taken into consideration.

4.3 Public Comment

Three neighbouring properties have been advised as regards the proposal and a site notice has been posted for the required period. Public comments have been received from two sources as a result of this publicity. Concerns raised include:

- Greenfield site less suitable for development than previous proposal adjacent to existing buildings
- Proximity of agricultural shed less than 20 metres away on opposite side of bridleway
- Proposed garage would appear to sit on top of the septic tank drain from Coppice Farm opposite
- Height should be restricted to a single storey in order to be in keeping with other nearby buildings.

Remarks made in favour of the proposal are as follows:

- The dwelling is proposed within the group of buildings already there and not to intrude on any other properties views etc or encroach into the countryside
- Permission has been granted for an affordable dwelling at Coppice Farm and the situation is no different at this site
- The view from Cruckmeole to Cruckton will be improved as the new dwelling will mask the farm buildings at Coppice Farm.

5.0 THE MAIN ISSUES

Principle of development

Design, Scale and Character

Impact on Residential Amenity

Other Matters – Trees, Ecology, Heritage Assets, Public Protection, Highways, Rights of Way

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- 6.1.2 Shropshire Council Site Allocations and Management of Development (SAMDev) Plan was adopted on 17 December 2015. The SAMDev Plan document sets out Development Management policies which provide specific guidance to meet national policy requirements principally in the NPPF or to provide more detailed guidance to supplement those policies already adopted in the Core Strategy. Shropshire Council currently has 6.04 years supply of deliverable housing land.
- 6.1.2 The site falls outside any defined development boundary or Community Cluster and is therefore identified as being in open countryside under SAMDev Policy MD1 and 2. Policy CS5 in the Shropshire Core Strategy, supported by SAMDev Policy 7b, indicates that new development in open countryside will be strictly controlled in accordance with national planning policies protecting the countryside and green belt. However, exception may be made if the proposal is for affordable housing to meet a local need in accordance with national and local plan policies, in which case appropriate sites which maintain and enhance countryside vitality and character may be considered.
- 6.1.3 Policy CS11 further indicates that exception schemes for local needs affordable housing may be considered on suitable sites in recognisable named settlements, subject to suitable scale, design, tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity.

- 6.1.4 Policy MD7a of the SAMDev confirms that suitably designed and located exception site dwellings will be positively considered where they meet evidenced local housing needs and other relevant policy requirements.
- 6.1.5 The policy criteria in relation to affordable plot exception sites are clearly detailed in the current SC Type and Affordability of Housing Supplementary Planning Document (SPD).
- 6.1.6 The applicant is required to satisfy criteria including:-
- ☐ Housing need in the local area
 - ☐ Local Connection
 - ☐ Ensuring affordability in perpetuity
 - ☐ Location
 - ☐ Scale and design

7.0 **Housing need in the local area and Local Connection**

- 7.1 The Council's Housing Enabling Officer assessed the proposal in terms of housing need and local connection and confirmed that the applicant was eligible for the scheme in March 2017, and has reconfirmed eligibility in regard to the current proposal.

8.0 **Ensuring affordability in perpetuity**

- 8.1 The site is accessed from a public bridleway, and sits very close to existing agricultural buildings. Public protection consultees have pointed out that farming practices at Coppice Farm opposite the site might have the potential to be noisy at unsociable hours of the day, and produce odours. The farming business deals in sheep and cattle and has 2-10 associated vehicle movements along the bridleway every day, between 6am and 10pm. There is also a fishery to the rear of the farm buildings. The proximity to the farm on the opposite side of the bridleway may make the dwelling less attractive in the future to anyone not connected with the farm, potentially creating difficulty with the perpetuity criteria of the affordable exception site policy.

9.0 **Location**

In order to minimise the impact of "exception site" developments within the sensitive rural landscape the new development must be within or adjacent to a recognisable named settlement. Paragraph 5.14 of the SPD makes it clear that sites that do not lie in a settlement, constituting isolated or sporadic development, or which would adversely affect the landscape, local historic or rural character (for example due to an elevated, exposed or other prominent position) are not considered acceptable.

9.1 **Settlement/Sporadic Development**

- 9.1.1 In assessing whether the application site is within or adjacent to a recognised named settlement, the character of the settlement is important, and guidance is provided in paragraphs 5.17 of the SPD, summarised as follows:

a settlement is a relationship between different properties and the limits of the settlement are defined by where the relationship peters out. This varies from settlement to settlement, depending on a number of factors. For example, a site a short distance from a loose-knit settlement may be considered “adjoining” while a similar distance in a tightly clustered settlement would not be. Larger settlements also have a wider “pull” or “sphere of influence” than small settlements, influencing the relationship between a site and the settlement.

- 9.1.2 Pontesbury Parish Council and the Local Member, as outlined at 4.2 above, both consider the site to fall within the settlement of Cruckton.
- 9.1.3 Officers, on the other hand, tend to the view that the site cannot be considered as falling within or adjacent to a recognisable named settlement.
- 9.1.4 The intention of the policy is to encourage affordable housing while avoiding sporadic development throughout the countryside. While the more dispersed farmsteads around Cruckton will have some affinity to it in terms of postal address, parish council, social relationships and so forth, any dwelling or farm in the Shropshire countryside will have a similar affinity to some central core. However, to be considered as falling within, or adjacent to, a settlement, a proposed site must of necessity have a close physical relationship with existing built dwellings which are distinguishable as a group in spatial terms from the countryside around them.
- 9.1.5 There is today a clear central core to Cruckton, centred around Cruckton Hall which has occupied the site since the 17th century, with listed Home Farm opposite. The developed area is small with no facilities and residents will probably go to Hanwood or Pontesbury for urgent groceries, medical services, and entertainment.

There has been residential development along the road running past Cruckton Hall, within its former grounds, and opposite, on the site of the Roman scheduled monument, and including the conversion of the 19th century church. The relationship between these properties is clear, and terminates at Home Farm and New House Farm to the north and Church House to the south east.

- 9.1.6 Open countryside surrounds this developed core and contributes to its rural setting and its separation from other neighbouring settlements. There are some dispersed buildings along the roads into and out of Cruckton, all of which appear on historic mapping and present as isolated development along the roads, surrounded by fields. Coppice Farm, Terrace Farm and the other smallholding established along the bridleway between Cruckton and Hanwood are of mid C20 date and are perceived as small rural buildings set in a wide and attractive countryside landscape.
- 9.1.7 The proposed pasture field site forms part of this extensive area of open countryside around the settlement. It lies at least 200m beyond Church House at

the eastern edge of the existing built form of the settlement on the C road towards the A488.

- 9.1.8 Current users of the road from Cruckmeole on the A488 travel north through the cluster of houses at Cruckmeole and then 550m on and up into a landscape of fields and towards the brow of the bank, where Coppice Farm currently fronts the road with the appearance of an attractive smallholding with low attached farm buildings. The 2016 approved affordable dwelling here will have a single storey and will be viewed adjacent to and in the context of the existing farm buildings, and will have minimal additional impact on the landscape. The officer report and committee consideration at the time of decision did not consider that this site was within or adjacent to the settlement of Cruckton, but preferred the site to an alternative to the north west which may have had impact on the setting of grade II listed Church House.
- 9.1.9 The farm buildings at Terrace Farm are visible 300m to the west, but are not prominent, being small in scale with low roofs and appropriate within the landscape. The core cluster of buildings at Cruckton are not visible to road users until they have negotiated a 90 degree bend in the road and travelled a further 130m appx. along the lane.
- 9.1.10 Officers thus consider that the proposed site cannot be viewed as lying within or adjacent to the settlement of Cruckton, but that instead any development here would be a sporadic addition to the countryside.

9.2 **Landscape, Historic and Rural Character**

- 9.2.1 Paragraph 5.14 of the SPD makes it clear that sites which would adversely affect the landscape, local historic or rural character (for example due to an elevated, exposed or other prominent position) are not considered acceptable.
- 9.2.2 The existing landscape local to the site comprises spacious green pasture land with occasional large mature trees, rising gently to the brow of the hill where a few small mid C20 farmsteads occupy staggered and separate locations along the bridleway.
- 9.2.3 The proposed development at this site would add a new and prominent presence at the brow of the hill, encumbering existing views of Coppice Farm.
- 9.2.4 Users of the bridleway currently enjoy largely open views, with occasional farm buildings on one side or the other. The proposed development would introduce a more cluttered landscape with built structure on both sides of the bridleway.
- 9.2.5 Officers consider that residential development in this elevated and prominent location would appear extraneous to the existing landscape and form an unattractive domestic intrusion into the rural environment. It would therefore not satisfy the policy requirements of CS11 and the Type and Affordability of Housing SPD, in that it would adversely affect the local historic and rural character as well as the local landscape.

- 9.3 On balance officers consider that the proposed site cannot be considered as falling within the location criteria outlined in policy in respect to affordable housing exception sites.

10 **Design, Scale and Character**

- 10.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect, restore, conserve and enhance the natural, built and historic environment, and to be appropriate in scale, density, pattern and design taking into account the local context and character. Development should safeguard local amenity and be designed to a high quality including appropriate landscaping, and make the most effective use of land and safeguard natural resources.

The explanation to CS6 elaborates as follows:

The quality and local distinctiveness of Shropshire's townscapes and landscapes are important assets. They have a direct impact on quality of life and are an important influence on the local economy in terms of attracting investment and boosting Shropshire's image as a tourist destination. The Council will ensure new development complements and relates to its surroundings

High quality design will be expected in all new developments to ensure that the development is appropriate to its setting and surroundings and to ensure that local character is reflected. Appropriate landscaping and tree planting will form an integral part of any proposal to ensure that development is better assimilated into its surroundings.

- 10.2 CS17 states that all development will protect and enhance the diversity, high quality and local character of Shropshire's natural environment, and will not adversely affect its visual value and function. Development should contribute to local distinctiveness, having regard to the quality of Shropshire's environment.

- 10.3 SAMDev Policy MD2 requires proposals to:

Contribute to and respect locally distinctive or valued character and existing amenity value by:

- i. Responding appropriately to the form and layout of existing development and the way it functions, and
- ii. Reflecting locally characteristic architectural design and details, such as building materials, form, colour and texture of detailing, taking account of their scale and proportion;

new development should respect the existing pattern of development, both visually and in relation to the function of spaces, retain and enhance important views and landmarks and respond appropriately to local environmental and historic assets, in accordance with MD12 and MD13

- 10.4 5.19 of the Type and Affordability of Housing SPD states that exception site developments must have regard to housing need and are relatively small sites.

- 10.5 5.20 continues that any development must be in harmony with the character of the area, of a suitable design and construction materials and appropriate to its location, and that given the exceptional nature of these developments, high quality design is essential
- 10.6 5.22 specifies that the dwelling size will not normally be permitted to exceed 100 square metre gross internal floor area. Detached garages and other outbuildings for storage purposes will not count against the 100sqm and therefore may be permitted, where they are suitably designed and appropriate to their context.
- 10.7 The proposed dwelling will measure approximately 13 metres wide in total, comprised of the 2 storey section of 9.9m width, and the single storey extension of a further 3.1m width. The proposed dwelling will be 6.6 metres deep at its maximum, with an additional front porch area of 1.1m depth appx. The dwelling will have a maximum ridge height of appx. 7.4 metres (reduced from 7.8m originally), eaves of 3.9 metres (reduced from 5.1 originally). The total internal floor space will be appx. 100 sq. m gross.
- The double garage with dual pitched roof and the rear slope extending lower to provide a log store, will measure approximately 7.2 metres wide, 6.6 metres deep with a ridge height of appx. 4.9m (reduced from 5.7metres originally), eaves of 2.4metres.
- 10.8 5.23 indicates that the overall plot size must be appropriate in terms of the general pattern of development in the surrounding area, and that a plot size exceeding 0.1 hectare will not normally be permitted. The proposed site (as revised) is appx. 0.1 hectare in size.
- 10.9 The amended design for the dwelling, submitted during negotiations, includes lower eaves than originally proposed, with dormer windows to the roofspace and does better reflect the local character than the original proposal. Similarly, the amended design for the proposed double detached garage is reduced in height and has less glazing than originally proposed, and will be more reminiscent of local farm buildings.
- 10.10 However, officers take the view that a single garage would be more appropriate and better suited to maintaining the affordability of an exception site and still serve the purpose of providing storage for the applicant's work van and tools.
- 10.11 A double garage also creates additional built structure on a site which in any case seems inappropriate to accommodate any domestic intrusion.
- 10.12 As detailed above, the proposed dwelling and garage would be prominent in the local countryside landscape, visible towards the brow of the hill in views from all directions, including from the public bridleway and the highway adjacent. Officers consider that development of this site would neither conserve nor enhance the historic landscape environment here as required by CS6 and 17, and would diminish the local distinctiveness.

- 10.13 Neither would a new dwelling here respond appropriately to the form and layout of existing development. There are only 3 small farmsteads along the bridleway to Hanwood, each with a farmhouse and some low farm buildings, and they are clearly distinct from each other with open land between them, and no buildings facing them on the other side of the bridleway. The space around them is important to the rural character they present, and an additional dwelling here, opposite the farm buildings of Coppice Farm would constitute an alien intrusion to this landscape.
- 10.14 The site for the dwelling lies immediately opposite farm buildings, and officers feel that this will not, as suggested, provide context for the new dwelling but will rather highlight the domestic nature of the new addition to the landscape.
- 10.15 Landscaping is proposed to include post and rail fencing, and native hedging to the north west boundary, with some larger trees in addition. A large mature tree will be retained within the curtilage, and some additional trees will be planted. However, the landscaped grounds also include low walls, pathways, and 40sq.m of elevated decking which would add to and highlight the new domestic nature to the site and could not usefully mitigate the new built development in the countryside.
- 10.16 A new access from the bridleway is to be provided, and there will be some associated additional vehicular traffic. Although highways consultees are satisfied this will not create any safety concerns, it will all add to erosion of the existing peaceful and rural nature to this bridleway between two separate centres of population.
- 10.17 The proposed plot situated on land to the north west of Terrace Farm is a substantial distance from the listed building of Church of St Thomas and Scheduled Ancient Monument further to the north west. It will be fairly well screened by existing tree cover, buildings and vegetation, and officers consider that the proposed dwelling would have no additional adverse impact on the nearby heritage assets, or those situated further into the settlement of Cruckton, than that already described above on the general rural approach to the village.
- 10.18 Whilst it is acknowledged that the proposed dwelling is moderate in scale and design, the double garage is not considered necessary or appropriate for an affordable dwelling, and more significantly, it is not considered that this location lends itself to the erection of a dwelling house. The site is open with wide vistas out towards the open countryside and with only one existing boundary along the bridleway. It is considered that construction of a new dwelling at this location, with associated domestic paraphernalia and clutter, would constitute a detrimental addition to the landscape at odds with the rural and open aspect of the setting.
- 11.0 **Impact on Residential Amenity**
- 11.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

- 11.2 The proposed new dwelling will lie opposite Coppice Farm on the northern side of the bridleway. As detailed above, there is some existing and potential farming activity at Coppice Farm which may affect the amenity of any new dwelling here and make it less attractive as an affordable home in perpetuity.
- 11.3 The new home would appear unlikely to have any impact upon the amenity enjoyed by Coppice Farm, but the amenity of the new dwelling itself may be compromised by its location opposite agricultural buildings and accesses.
- 12.0 **Other Matters** – Drainage, Trees, Ecology, Impact on Heritage Assets, Highways, Rights of Way.
- 12.1 Consultees generally have no objections to the proposal, but have provided conditions and informative advice, and officers concur that these will enable compliance with policy in regard to these matters and should be included on any grant of planning permission.

13.0 CONCLUSION

The proposed development is in an inappropriate location for an exception site dwelling.

- The proposed site cannot be considered to be within or adjacent to the named settlement of Cruckton, clearly falling within the rural landscape rather than the settled area.
- Development of the site would adversely affect the local historic and rural character as well as the local landscape
- The site is accessed from a public bridleway, and sits very close to existing agricultural buildings and may not be considered as a suitable location for the provision of an affordable dwelling in perpetuity, as required by the relevant policy.

This site therefore falls outside policy requirements within CS5, SAMDev MD7b, CS11, SAMDev MD7a and the Type and Affordability of Housing Supplementary Planning Document 2012.

Although the amended design for the dwelling and garage better reflect the local character than the original proposal, officers consider that the proposed development of this site would:

- neither conserve nor enhance the historic landscape environment
- have detrimental impact on visual amenity
- diminish the local distinctiveness
- respond inappropriately to the form and layout of existing development.

The proposed development therefore fails to satisfy CS6, CS17, and SAMDev MD02 and 13.

Officers acknowledge that the proposal may be able to satisfy policy in terms of drainage, impact on heritage assets, ecology, trees, highways, and rights of way issues, but these do not outweigh the objection to the principle and location of the development.

The proposal for housing in this location would therefore be contrary to the overall development strategy for the area and would be contrary to the relevant parts of the Type and Affordability of Housing SPD and fail to satisfy policies CS5, CS6, CS11 and CS17 of the Core Strategy and policies MD01, 02, 07a, and 13 of the SAMDev Plan. The application is recommended for refusal.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the

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

9.0 FINANCIAL IMPLICATIONS

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD7A - Managing Housing Development in the Countryside

MD13 Environment

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

17/02233/FUL Erection of an affordable dwelling, associated garage and installation of septic tank, refused

11. Additional Information

[View details online:](#)

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)

Cllr R. Macey

Local Member

Cllr Roger Evans

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

No above ground development shall commence until samples/precise details of all external materials/finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and thereafter maintained in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To ensure that the external appearance of the development is satisfactory, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

Notwithstanding the approved plans, no works associated with the development permitted will commence a full landscaping plan will be submitted.

Reason: To ensure due consideration is given to ensuring the appearance of the development is appropriate to the rural landscape in which it is located.

No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All services will be routed outside the Root Protection Areas indicated on the TPP or, where this is not possible, a detailed method statement and task specific tree protection plan will be included.

Reason: To ensure that due consideration is given to protecting the natural features which contribute to the amenity of the local area and which are important to the appearance of the development.

All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development.

Reason: To ensure the protection of the natural features which contribute to the amenity of the local area and which are important to the appearance of the development.

No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of the said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

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

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

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

- A minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 1 artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).

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

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12,CS17 and section 118 of the NPPF.

The development hereby permitted shall not be brought into use as a dwelling until the areas shown on the approved plans for parking and turning of vehicles have been provided 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

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

Notwithstanding the provisions of Schedule 2 part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order modifying, revoking or re-enacting that Order), no garage, carport, extension or other building shall be erected within the curtilage of the dwelling hereby permitted.

Reason: To enable the Local Planning Authority to retain control of the siting and external appearance of any buildings to be erected in the interest of visual amenity and to maintain the future affordability of the dwelling.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 class A, B and C shall be erected, constructed or carried out.

Reason: To ensure that the dwelling remains of a size which is "affordable" to local people in housing need in accordance with the Council's adopted affordable housing policy.

All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made.

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

The detached garage included in the development hereby permitted shall only be used for purposes in connection with and ancillary to the enjoyment of the new dwelling as a single

dwelling unit, but shall not be converted into or used as habitable accommodation, or used for commercial or business purposes.

Reason: To ensure that the outbuilding is not used as a separate dwelling and that the property as a whole remains of a size which is 'affordable' to local people in housing need, in accordance with Policies CS5 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy.

Notwithstanding the provisions of Schedule 2 part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order modifying, revoking or re-enacting that Order), no garage, carport, extension or other building shall be erected within the curtilage of the dwelling hereby permitted.

Reason: To enable the Local Planning Authority to retain control of the siting and external appearance of any buildings to be erected in the interest of visual amenity and to maintain the future affordability of the dwelling.

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 (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 Trusts Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014). The lighting shall be installed 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.

Throughout a period of 5 years from the date of occupation of the new dwelling, no existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

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

The new (affordable) dwelling(s) hereby permitted shall be constructed to a minimum of an equivalent to the Code for Sustainable Homes level 3, for energy and water efficiency.

Reason: To ensure the dwelling is constructed with a view to reducing its carbon footprint.

The dwelling hereby permitted, shall not exceed 100 square metres gross internal floor area, including any future extensions. No further internal habitable space shall be created within the dwelling by internal alterations.

Reason: To ensure that the dwelling is of a size appropriate to the local affordable housing market.

Informatives

1. A Bridleway allows the public to use this route on foot, horseback and cycle and does not carry public motorised vehicular rights. The applicants are advised to satisfy themselves that they are able to demonstrate a sufficient vehicular right of access before committing further resources to the proposal.

Neither the granting of planning permission, nor any associated obligations relating to the proposed access, either grant or imply the existence of any right for the benefit of the applicant to use that way with vehicles. It is a road traffic offence to drive a motor vehicle on a public restricted byway without lawful authority.

2. The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.

Vehicular movements (i.e. works vehicles and private vehicles) must be arranged to ensure the safety of the public on the right of way at all times.

Building materials, debris, etc must not be stored or deposited on the right of way.

There must be no reduction of the width of the right of way.

The alignment of the right of way must not be altered.

The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged.

No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation.

3. Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

4. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at: <http://new.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-fordevelopers.pdf>.

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

5. 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 and/or scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be

clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. No clearance works can take place with 5m of an active nest.

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

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

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.

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.

7. This planning permission does not authorise the applicant to:
construct any means of access over the publicly maintained highway (footway or verge) or carry out any works within the publicly maintained highway, or authorise the laying of private apparatus within the confines of the public highway including any new utility connection, or undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

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

8. Drainage arrangements should be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development should be allowed to discharge into any highway drain or over any part of the public highway

9. The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.