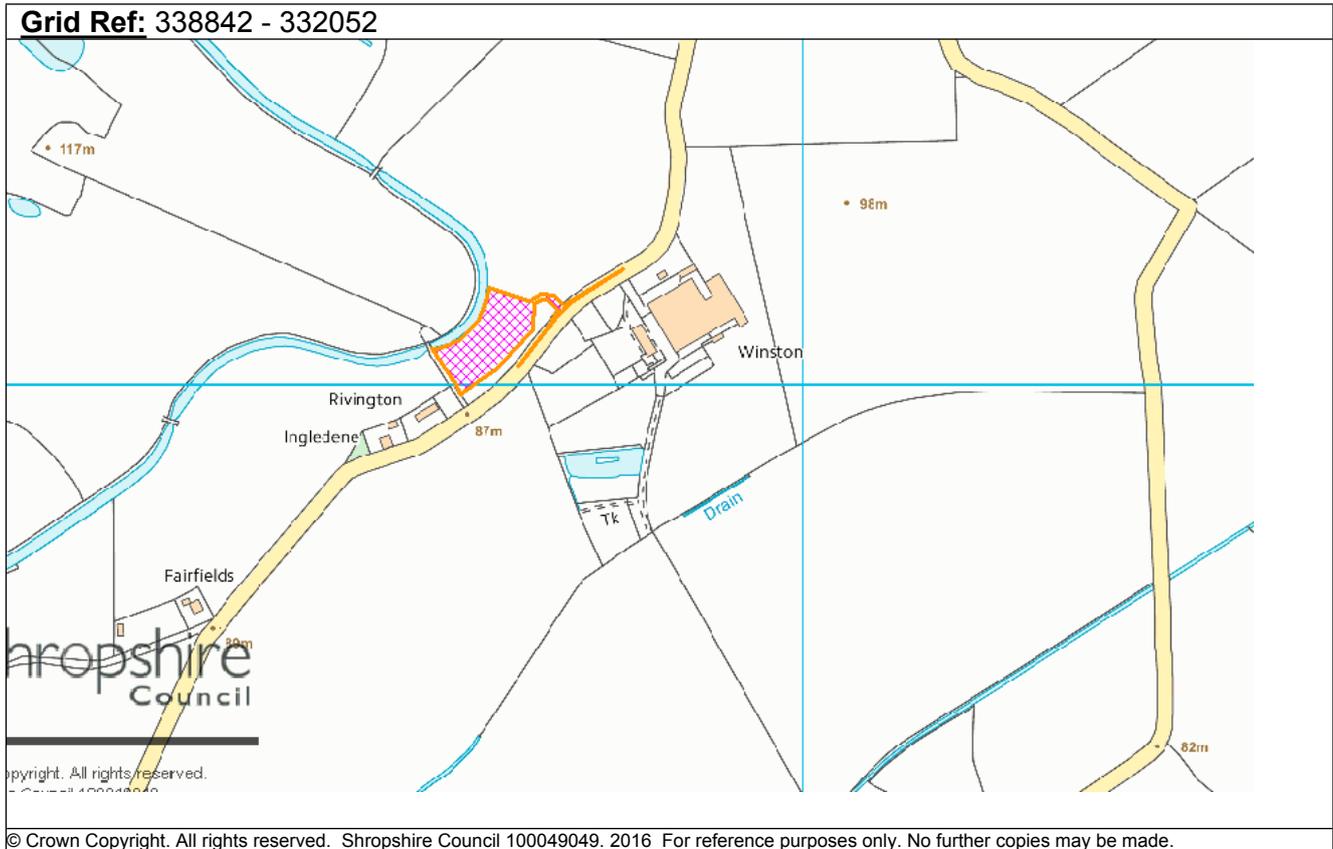


Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 18/00833/FUL	Parish:	Ellesmere Rural
Proposal: Siting of 3 log cabins and construction of an associated access track and parking area and all associated works to include change of use of land.		
Site Address: Land At Winston Ellesmere Road Tetchill Ellesmere Shropshire		
Applicant: Mr S F Jones		
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk	



Recommendation:- Refuse planning permission.

Reason for refusal

Whilst the scheme will provide some economic benefit by increasing the tourism offering that the area has, it is considered that this would be substantially outweighed by the visual and landscape impact harm as well as the impact on the setting of the heritage assets. Accordingly, it is considered that the proposal fails to comply with Shropshire Local Development Framework Core Strategy policies, CS5, CS16, CS17 and SAMDev Plan policies MD2, MD4 MD7b, MD11, MD12 and MD13. As well as the overall aims and objectives of the National Planning Policy Framework and in particular paragraph 28 and 134. .

REPORT**1.0 THE PROPOSAL**

1.1 Permission is sought for the change of use of agricultural land for the construction of three identical log cabins measuring 6.10m width, 13.1m length and overall height of 3.9m, for use as holiday accommodation. The cabins would contain two bedrooms and have a total floor area of 79.91 sqm. The scheme also includes the creation of a new access, a driveway leading to the three cabins and the provision of two parking spaces per cabin.

1.2 This current application follows the previous refusal in October 2017 for a similar scheme for the same number and type of cabins (17/03613/FUL), on a site slightly further to the north but still adjacent to the Llangollen Canal; the two schemes both have their proposed access in the same position. The previous application was refused for the following two reasons:

1. *“The proposal represents inappropriate development in open countryside in an unsustainable location for which no justification has been demonstrated. Accordingly, it is inconsistent with Shropshire Local Development Framework Core Strategy policies CS1, CS5, CS16 and SAMDev Plan policies MD2, MD4 MD7b and MD11. Including paragraph 14 and 28 of the National Planning Policy Framework.”*
2. *“No heritage assessment report was submitted with the application and therefore an accurate assessment cannot be made on the less than substantial harm to the non-designated Llangollen Canal and nearby Listed Bridge which includes siting, layout, design and proposed materials used in the scheme. Local policies CS17 and MD13 seeks to protect, conserve and enhance the asset, avoiding harm or loss to its significance where such harm or loss needs to be balanced against public benefit, which in this case is limited. Failing to meet with paragraphs 14, 128, 132 and 134 of the NPPF.”*

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site sits in open countryside sandwiched between the class III road along the south eastern boundary and the Llangollen canal on the north western

boundary. The site roughly consists of 0.58 hectares of farmland, rurally located approximately 360m to the west of the complex of building at Winston Farm which is located on the opposite side of the road. The edge of Tetchill is around 400m to the north of the application site.

- 2.2 To some extent the site is screened by the existing roadside hedgerow, however because the land rises away from the road, up towards the canal, much of the site is visible above the hedge when viewed from the passing road; when approaching the site from either direction.
- 2.3 Vehicular access to the site would be gained from Class III road following formation of new internal vehicular access track, which would be the principle access serving the site.
- 2.4 The application site sits on the outside of a bend on the Llangollen Canal the towpath alongside provides a footpath connection to Tetchill and Ellesmere.
- 2.5 Around 150 metres to the north of the application site there is a Grade II Listed canal bridge, a designated heritage asset as identified under Annex 2 of the National Planning Policy Framework.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Parish Council submitted views contrary to the officer which in the opinion of the local member warrant consideration by the planning committee.

4.0 **Community Representations Consultee Comments**

- 4.1 **Parish Council-** The Parish Council agreed to support this application providing conditions are in put place to limit length of occupancy for holiday use only, that ecological requirements/conditions are met, landscaping is put in place to screen the development and that any exterior lighting is installed will not cause undue pollution (suggest low level).
- 4.2 **Canal and River Trust-** object to the application.
The submitted visualisations indicate the effect of established planting though it is considered that these have not demonstrated that this would add to the scheme or help to mitigate the impact on this rural stretch of canal and wider landscape character of generally open fields. The visuals do not demonstrate what the experience of the proposals would be from the canal towpath or boats and do not appear to show the associated access road/parking.

Therefore, the additional information does not significantly alter the overall impact that the proposed development would have upon the canals rural, open setting. We would therefore reiterate the comments in our previous response dated 28th March 2018 and advise that planning permission should not be granted for the following

reason:

The 3no. log cabins proposed due to their size, design, proximity to the canal and associated works, such as the access track/parking area would adversely impact on the visual amenities of the locality and the current rural setting of the Llangollen Canal, a non-designated heritage asset. The proposal would therefore be contrary to Policies CS16 & 17 of the adopted Core Strategy and Policies MD 11 & MD 13 of the adopted Site Allocations and Management of Development Plan (SAMDev).

4.3 **Public Protection-** no comment to make.

4.4 **Highways-** no objection subject to conditions.

4.5 **Ecology-** no objection subject to conditions and informatives

4.6 **Archaeology-** the submitted Heritage Assessment satisfies the requirements of Paragraph 128 of the NPPF and Policy MD13 in terms of assessing the archaeological interest of the proposed development site and concur with its findings that the site has low archaeological potential.

4.7 **Conservation-** have concerns about the impact of the scheme on the historic environment, in particular the setting of the Grade II listed canal bridge. The canal and its associated structures - including the designated asset - are set within an open rural setting which would be unavoidably and irreversibly altered by this development, and their significance affected as setting is considered to make a primary contribution towards this. Whilst promoting rural tourism, it would appear as an isolated development within the countryside, and is contrary to policies MD13 and MD2 and Chapter 12 of the NPPF; the decision maker should assess the application in relation to the harm identified, in accordance with paragraph 134, and any public benefits arising.

Public Comments

4.8 1 letter of objection received, commenting on the following issues:

Site is outside of development boundary

No economic benefit to Tetchill which has no shop or pub.

Impact on wildlife

Impact on flooding

Set a precedent.

Not in the interests of the village

5.0 **THE MAIN ISSUES**

Principle of development

Siting, scale and design and landscape

Highway Safety

Ecology
Drainage

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Policy CS1 provides a strategic approach to managing new development in Shropshire County and seeks to limit sporadic speculative development in open countryside, encouraging new development to sustainable locations.
- 6.1.2 Policy CS5 builds on policy CS1 and seeks to strictly control new development located in open countryside, especially at locations which are considered unsustainable unless significant justification has been provided demonstrating its need and benefit. Very little significant justification has been submitted with the application.
- 6.1.3 The proposed development represents small scale new economic development of which, in principle tourism development is generally supported. Paragraph 28 of the NPPF specifically emphasises that sustainable rural tourism should be supported, only when the proposal respects the character of the countryside at appropriate location which is reiterated within local plan policies CS13 and MD4.
- 6.1.4 Policies CS16 and MD7b sets out how Shropshire's Canals are a valuable asset to the County and that appropriate tourism development can form a focus for tourism and regeneration. Whether a particular part of the canal network is "appropriate" depends upon a number of factors and must be read in conjunction with other planning policies, including CS4 of the Core Strategy and MD7b of SAMDev. It is not the rationale of the policy to automatically support tourism development on any site that is adjacent to the one of the county's canals.
- 6.1.5 Policy CS16 and MD11 state that proposals in rural areas must be close to or within settlements, or be at an established and viable tourism enterprise. New development would not be acceptable where it would result in isolated, sporadic, out of scale, badly designed schemes. Unacceptable development which may either individually or cumulatively erode the character of the countryside, would not be considered acceptable. In favour of the policy is the fact that the site is located adjacent to the canal and this is a significant tourist attraction as recognised in policy CS16. This however must be balanced against other elements of the policy which specifically advises that tourism proposals that are sited in countryside locations must compliment the character and qualities of the site's immediate and wider surroundings and landscapes. Policy MD11 further acknowledges that static caravans, chalets and log cabins are recognised as having a greater impact on the countryside and landscape character, further advising that non-natural features used for screening at a development should be avoided.
- 6.1.6 The canal is not only a benefit for tourism but it is also a non-designated heritage Asset. Near to the site there is also the Grade II Listed Bridge over the canal.

Policies CS6, CS17, MD2 and MD13 recognise there is a need to consider the scale, siting and design of the proposal, especially in terms of negative impacts upon existing environmental and historic assets in Shropshire.

- 6.1.7 The application site is within open countryside and does not relate directly to any existing farmstead. There is the applicant's farm but this is located on the opposite side of the road. As such, there are no other structures or building adjacent to the site to which the cabins would visually relate to. Instead the cabins would sit on their own. Neither is there an already established tourism business adjacent to the site, therefore failing the requirements of the Development Plan policies referred to above.
- 6.1.8 The site does not benefit from any footpath links to Tetchill, although in reality there are no services or facilities in Tetchill that could benefit from this tourism enterprise were tourists to walk there. Instead holiday makers would need to head to Ellesmere which is approximately a 3.8 km walk to its centre along the road, which does not benefit from a pavement or street lighting and has frequent traffic going to Ellesmere College. Alternatively tourists could use the canal towpath which would be a 4 km walk. Given the distance it is likely that the majority of tourists would elect to use the car and would be dependent on it in this rural location.
- 6.1.9 Having considered the site's position, the proposed development is not considered to be located within a sustainable location and would in effect introduce a new use and development within an established rural setting. This would interrupt and adversely impact upon established historic features and the wider landscape which comprises of gentle rolling hills and fields lined with hedgerows. No significant justification has been submitted to outweigh the environmental and social adverse harm, which includes an adverse impact upon heritage assets which would significantly and demonstrably outweigh the benefits of the scheme in line with paragraph 14 of the NPPF.
- 6.2 **Siting, scale and design and landscape**
- 6.2.2 The three proposed cabins, which includes the provision of external decking along two of its sides, together with the new internal access track and parking areas introduces inappropriate built development which irreversibly would detract from the existing quality and character of the established landscape. The applicant has detailed new "mature tree planting" which comprises scattered tree planting throughout the site and along the access track. Whilst such planting would help to screen and soften the impact of the cabins, the planting itself is likely to look out of place in a landscape that is characterised by open fields lined with hedgerows and occasional mature trees positioned within the boundaries. To introduce a field scattered with individual and clusters of trees is likely to appear alien in this landscape and draw more attention to the non-agricultural use of the site.
- 6.2.3 When viewed from the passing road the application site rises up towards the canal, as such the rear and side elevations of the cabins would be clearly visible above the roadside hedgerow along with the out of keeping landscaping scheme and would be very prominent in the local landscape. This would be detrimental to the

rural, open, agricultural landscape that users of the road experience once they have left the built up area of Tetchill. Further still development as proposed would have a significant impact on the canal itself and users of this stretch of waterway, which in itself is a major contributor to the local tourism industry.

- 6.2.4 In addition to the view from the road the proposed tourism development would be visible to those boating on the canal and also any walkers or cyclists using the tow path positioned on the northern bank of the canal. Depending on where a canal is located would determine the sort of experience that users would expect to have. Away from the urban area of Ellesmere users of the canal would expect to be in a quiet setting surrounded by fields with open views. They would not necessarily expect a tourism development in amongst a manufactured landscape. Whilst the canal would benefit those staying in the cabins, the cabins would conversely have a significant negative impact on those that use the canal/ towpath and their experience of them.
- 6.2.5 The Canals and Rivers Trust further advises that whilst the cabins would be set back from the canal, they would still be visually prominent when viewed from the canal and its towpath because of their overall size, their design and their expanse of decking. The applicant has described the proposed structures as “log cabins”, however the form, proportions and scale of the buildings are more akin to a static caravan, albeit timber clad, but still of an appearance that Officers consider difficult to blend into the landscape, especially one that is so open. This is recognised in policy MD11 of SAMDev where it states that, “static caravans, chalets and log cabins are recognised as having a greater impact on the countryside and schemes should be landscaped and designed to a high quality. As noted above it is considered that both the type of development and the proposed landscaping fails to satisfy these requirements.
- 6.2.6 In addition to the visual impact of the cabins there would also be the visual impact of the tourist’s parked cars and other ancillary items such as garden furniture, barbeques etc; further eroding the open, agricultural character of the immediate area and exacerbating the prominence of the tourism development and intrusiveness in the landscape, introducing an urbanising element.
- 6.2.7 As well as being sited adjacent to the Llangollen Canal, the scheme would be within the setting of heritage asset Grade II Listed canal bridge. The proposed site has been moved further away from the listed structure since the previous application was refused, this has lessened the detrimental impact. However, the Canal and River Trust and the Council’s Conservation Officer still consider that the proposal would result in harm to its character and setting. The extent of the harm is considered to be less than substantial. Under paragraph 134 where a proposal will lead to a less than substantial harm to a designated heritage asset then the harm must be weighed against the public benefit. There would be some economic benefit, by providing a small amount of employment for cleaning, maintenance etc of the site. In addition there would be the benefit gained from the spending power of tourists, although this would not be in the immediate area given the lack of local services and facilities, instead the economic benefit would be spread further afield. The site would provide an attractive site for tourists to stay in Shropshire, however

there is a greater number of tourists that use the canal whether by boat or on foot who would then be significantly affected by the visual impact of the development.

6.3 Highway Safety

6.3.1 The development site sits within a field and would be served by the formation of a new access track, which proposes to join the county road at the opposite side of access to Winston Farm.

6.3.2 The access layout, visibility splays and internal private road have been assessed and the highways officer considered the proposed arrangement to be acceptable in safety terms. However Officers have concerns with regards to the character of the layout of the entrance and loss of hedgerow in order to enable this development.

6.4 Ecology

6.4.1 An extended Phase One Habitat Survey was submitted with the application which undertook an assessment having regard to the proposed development impact upon ecology at the site location. Shropshire Council Ecology officer raised comments regarding the addition of planning conditions if planning permission were to be granted. However, in the context of its setting abutting onto Canal side and wider setting, the Canals and River Trust raise concern having regard to the proximity of the lodges and decking to the canal corridor and woodland, recommending additional condition requiring details of lighting.

6.5 Drainage

6.5.1 The application form states that foul sewage would be dealt with by way of a package treatment plant, but no further details have been submitted with the application.

7.0 CONCLUSION

7.1 The proposal represents inappropriate development in an isolated, open countryside location. The proposal is not the expansion of an existing tourism enterprise neither is it high quality accommodation in a location that is served by a range of services and facilities. The proposal is in a prominent position on raised ground to which development as proposed on site will have a significant impact on the surrounding landscape as well as visually in relation to the canal and users of this waterway which in itself acts as a significant draw to local tourism. As such the proposal fails to respect the character of the rural surroundings or the setting of both designated and non-designated heritage assets.

7.2 Whilst the scheme will provide some economic benefit by increasing the tourism offering that the area has, it is considered that this would be substantially outweighed by the landscape and visual harm and the impact on the setting of the heritage assets. Accordingly, it is considered that the proposal fails to comply with Shropshire Local Development Framework Core Strategy policies, CS5, CS16, CS17 and SAMDev Plan policies MD2, MD4 MD7b, MD11 and MD13. Including paragraph 28 and 134 of the National Planning Policy Framework.

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:
NPPF

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt
CS16 - Tourism, Culture and Leisure
CS17 - Environmental Networks
MD2 - Sustainable Design
MD4 - Managing Employment Development
MD7B - General Management of Development in the Countryside
MD11 - Tourism Facilities and Visitor Accommodation
MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

11/02381/FUL Conversion of existing outbuildings to 4 no. holiday accommodation units
GRANT 9th November 2011
11/04274/FUL Installation of a 36.4m high to hub height with 9.6m blades, 50kw micro
generation wind turbine with control box GRANT 10th April 2012
15/01788/FUL Erection of an agricultural building GRANT 25th June 2015
17/03613/FUL Siting of three holiday let properties with erection of raised decked area to each
unit; to include change of use of land to tourism; construction of an access track and parking
area REFUSE 18th October 2017
18/00833/FUL Siting of 3 log cabins and construction of an associated access track and
parking area and all associated works to include change of use of land. PDE

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 Brian Williams

Appendices

None