

## Development Management Report

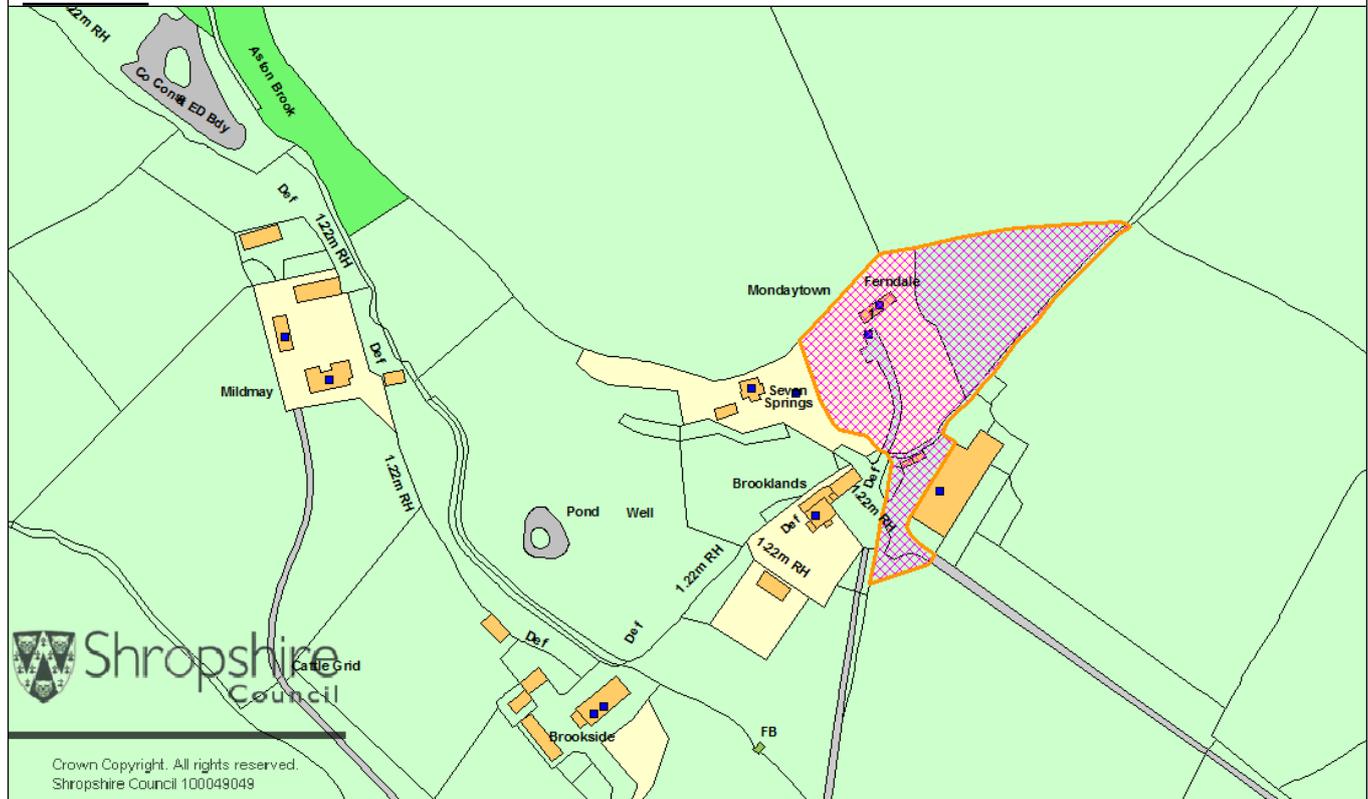
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 18/02962/FUL	<b>Parish:</b> Westbury
<b>Proposal:</b> Erection of replacement dwelling; installation of package treatment plant	
<b>Site Address:</b> 1 Monday Town Westbury Shrewsbury Shropshire SY5 9HG	
<b>Applicant:</b> Mr & Mrs Foster	
<b>Case Officer:</b> Cathryn Robinson	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Grid Ref:** 334367 - 307145



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

## Recommended Reason for refusal

1. The proposed replacement dwelling is materially larger and not sympathetic to the size and mass of the original property. By virtue of its scale and design, the proposal would fail to maintain the balance of local housing stock. The proposal is therefore contrary to Policy CS5, and CS6 of the adopted Core Strategy, SAMDev Policy MD7a, paragraphs 2.20-2.23 of The Type and Affordability of Housing SPD, and paragraphs 11-14 of the National Planning Policy Framework.

2. The proposal would have a significant detrimental visual and landscape impact on the surrounding countryside, due to its prominent skyline siting. These impacts are not considered able to be adequately mitigated by means of additional planting nor design amendments. It is considered that development on this site has a significant detrimental visual impact when viewed from surrounding public footpaths. As such the proposal is considered contrary to Policies CS5, CS6, and CS17 of the Shropshire Core Strategy, Policies MD2, and MD13 of the SAMDev and the overall aims and objectives of the NPPF in relationship to sustainable development.

**REPORT**

<b>1.0</b>	<b>THE PROPOSAL</b>
<b>1.1</b>	This application seeks permission for the erection of a replacement dwelling and the installation of an associated package treatment plant.
<b>2.0</b>	<b>SITE LOCATION/DESCRIPTION</b>
<b>2.1</b>	The application site lies within the hamlet of Mondaytown, situated approximately 2.5 miles south west of Westbury. The hamlet is accessed via a lengthy unadopted track/lane. The existing building sits slightly to the north in a commanding position within the domestic curtilage, with the closet neighbours (Seven Springs) being some 32m away. The site topography slopes up from the south towards the North.
<b>3.0</b>	<b>REASON FOR COMMITTEE DETERMINATION OF APPLICATION</b>
<b>3.1</b>	The Parish Council have provided views contrary to the Officers recommendation. This application has been discussed with the Local Member whom concurs with the support of the Parish Council, and as such has requested a committee determination of the scheme.

<b>4.0</b>	<b>Community Representations</b>
<b>4.1</b>	<b>- Consultee Comments</b>
<b>4.1.1</b>	<b>Westbury Parish Council</b> The Parish Council made comments in support of this application
<b>4.1.2</b>	<b>SUDs</b> No objection; please see decision notice, where informatives are recommended.
<b>4.1.3</b>	<b>SC Affordable Housing</b> Replacement dwellings are exempt from the need to contribute to affordable housing.
<b>4.1.4</b>	<b>SC Rights of Way</b> No comments to make on this application.
<b>4.1.5</b>	<p><b>SC Conservation</b> <u>17.09.18</u> These comments supplement those previously submitted on 24/7/18 and 7/8/18 respectively, where there were objections in terms of the proposed scale and footprint. Previous comments (concerns) are summarised as follows:</p> <ul style="list-style-type: none"> <li>- no principle objections to the proposed height of the building as the relevant heights are demonstrated on page 6 of the D&amp;A Statement, where there is no significant increase.</li> <li>- in terms of the proposed form of the building, there is strong preference to a traditional pitch in terms of referencing the local vernacular as shown in iterations B-D (as shown on page 22), that shows a smaller ancillary section that could be stepped down.</li> <li>- prominence of the proposed building and visual impact, taking account of the proposed photomontage from the south-east (page 21) .</li> <li>- No principle objections to the proposed use of materials including that of the stone plinth and zinc roof, though horizontal timber weatherboarding (which can be finished in a dark stain), where the horizontal emphasis would work better with the proposed louvres.</li> <li>- HIA needs to be submitted in accordance with paragraph 189 of the NPPF and policy MD13 of SAMDev.</li> </ul> <p>It was recommended that further discussion should be held between the Council and the applicant in terms of developing the design of the building. The submitted HIA has now been consulted, where this aspect of the objection is effectively withdrawn. The conclusions with regards to the proposal being sympathetic to the scale, massing and form of the existing building, where the overall conclusion that the proposal may be beneficial and 'negligible' at worse is noted. Whilst there is concurrence with regards to the overall loss of the non-designated heritage asset along with the proposed height that broadly accords with the existing building, there are still concerns with regards to the proposed scale, incremental massing and form of the proposal as per the summary given above. There is agreement that the new dwelling has potential to enhance the existing non-designated heritage asset that has been heavily altered, by utilising high quality design. It is acknowledged that the use of the proposed facing materials achieves this to an extent, but there are still overriding concerns with the proposed scale and form of the new building as discussed.</p>

Whilst there are some elements of concurrence and agreement with regards to the proposal, objections are still upheld in terms of the proposed design of the scheme, where it is considered that it is contrary to paragraphs 130-131, 197 of the NPPF and policies CS6 and CS17 of the Core Strategy, along with policies MD2 and MD13 of SAMDev.

Should approval be given to this scheme, it is noted that the HIA shows some remaining fabric of the building of significance that may be salvageable and used for repairs for other historic buildings, such as the floorboards. Discussion would be welcomed with the applicant as to how such fabric could be carefully set aside and sent to an appropriate reclamation contractor.

#### 07.08.18

These comments supplement those previously submitted on 24/7/18, where the revised Design and Access Statement (submitted on the same date) is noted. The contextual analysis contained within the Design and Access Statement is helpful in terms of how the applicant has arrived to the proposed design.

Previous comments were made in terms of overall scale and footprint, where the contextual analysis is helpful in terms of demonstrating the relative height of the proposed building as shown on page 6. In terms of the proposed form of the building, iterations B-D (as shown on page 22) is interesting, where there is a strong preference to a traditional pitch, along with the building forming of a smaller ancillary section that could be stepped down. The proposed photomontage from the south-east (page 21) shows the building as quite prominent, where the setting down may aid in mitigate against this visual impact. The rationale of the proposed shallower pitch for a greater span is noted in the Design and Access Statement (page 23), where it is stated that this shall reference historic 'bank barns'. Essentially, such a pitch is typical of modern steel type barn, where the vernacular is clearly has a steeper traditional pitch which should be replicated. Therefore it is not considered that this shallower pitch is a typical vernacular/traditional feature within this part of Shropshire, though it is acknowledged that modern barns do exist adjacent to the site.

The general proposed material of stone plinth and zinc roof is generally fine, though horizontal timber weatherboarding (which can be finished in a dark stain), where the horizontal emphasis would work better with the proposed louvres. It is noted that a considerable effort and research has been made with regards to sourcing an appropriate stone.

In respect to these comments along with the previous comments, it is recommended that further discussion is held between the Council and the applicant in terms of developing the design of the building, where this may be beneficial.

#### 24.07.18

This proposal has been subject to pre-application advice (PREAPP/17/00455), where the following principle issues were highlighted:

- The proposed net increase of the footprint is significant to that of the existing

dwelling which is contrary to SAMDev policy MD7a; and

- Concern with the proposed 'butterfly' roof as part of the proposed contemporary design, where this is not deemed to be sufficiently outstanding or innovative when assessed against the relevant policy tests outlined under paragraph 55 of the NPPF.

It is disappointing to see that the above advice has not been taken account as part of the formal planning application, where there is also a need to take account of the existing non-designated heritage asset. A Heritage Impact Assessment needs to be undertaken in terms of assessing the loss of the remaining structure and whether the replacement dwelling is of sufficient design merit, in order to mitigate against its loss, as part of the overall planning balance. It is acknowledged that the existing building has been very heavily altered and extended, where should approval be given, a condition for its recording should be undertaken, especially through the demolition phase in case any underlying historic fabric of significance may be uncovered (ie stone/timber framing). Also a Structural Survey/Condition Survey should be undertaken in order to fully demonstrate that the building is beyond all reasonable economic repair.

There is concurrence with the proposed scale of the new proposal and its overall architectural form, whilst the height is not of concern (as demonstrated in the relevant submitted drawing), the overall massing as shown in the submitted photo montage is still of principle concern given its hillside setting in what is a rural and agricultural area where it looks somewhat imposing. The proposed design of the new dwelling needs to positively respond to this context, where it is overly domestic in terms of balconies, with the split butterfly roof profile making it look somewhat disjointed. The principle of a linked garage by making the garage subterranean is supported, so that it is clearly ancillary, and does not interfere with the composition of the principal dwellinghouse. It is therefore strongly recommended that the proposed dwelling is revised in terms of:

- reducing the proposed footprint,
- following the linear properties of the existing building,
- making the proposed dwelling look like a converted cottage and barn (working with two principal elements), using traditional roof pitches, vernacular local materials including stone and slate tiles, where the design should be more traditional in its scale and form.

Overall, there are objections to this proposal where it is considered to be contrary to paragraphs 189, 192(c), and 197 of the NPPF, policies CS6 and CS17 of the Core Strategy and policies MD2 and MD13 of SAMDev.

**4.1.6 SC Ecology**

18.09.18

No further comment; conditions and informatives are recommended to reinforce the critical aspects.

24.07.18

Additional information is required to support this application. SC Ecology will provide additional comments following clarification of these matters.

**4.1.7 SC Highways**

The property is located within a small hamlet located approximately 2.5 miles south west of Westbury and is accessed via private lanes leading off the B4386 rural

	road. The proposed development seeks to replace the existing dwelling within the property. Parking and turning is available and the development is therefore considered acceptable from a highways perspective. Due to the nature of the surrounding highways it is considered that a traffic management statement should be submitted for this development.
<b>4.2</b>	<b>- Public Comments</b>
<b>4.2.1</b>	This application was advertised via notice at the site. Additionally, the residents of three neighbouring properties were individually notified by way of publication of this application.
<b>4.2.2</b>	At the time of writing this report, five representations had been received in response to this publicity.
<b>4.2.3</b>	Two noted objection. The main points are surmised as follows – <ul style="list-style-type: none"> <li>• Access concerns – the property benefits from two points of access, and it is requested that any building traffic use the private access track within the ownership of the applicants.</li> <li>• Apprehension regarding the scale of the proposal</li> <li>• Insensitive design, not in keeping with the context of rolling hills</li> </ul>
<b>4.2.4</b>	Two noted support. The main points are surmised as follows – <ul style="list-style-type: none"> <li>• The development is a spectacular design of modern architecture that will indeed enhance and improve the site</li> <li>• The proposal reflects the local vernacular in a modern way and is an improvement to the setting, where it is less intrusive in the landscape</li> <li>• The existing building has been altered many times over its history, thus is of low communal value</li> <li>• The site is not within a conservation area, and the design is considered to make a positive contribution to local character with its modern sustainable</li> </ul>
<b>5.0</b>	<b>THE MAIN ISSUES</b>
	<b>Principle of development</b> <b>Siting, scale and design of structure</b> <b>Impact on visual amenity and the non-designated heritage asset</b> <b>Permitted development</b>
<b>6.0</b>	<b>OFFICER APPRAISAL</b>
<b>6.1</b>	<b>Principle of development</b>
<b>6.1.1</b>	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. 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.
<b>6.1.2</b>	The adopted development plan for Shropshire is the Local Development Framework (LDF) Core Strategy, the Supplementary Planning Document (SPD) on the Type and Affordability of Housing and the Site Allocations and Management of Development (SAMDev) Plan. Significant weight is also to be attributed to the

	National Planning Policy Framework (NPPF) in the determination of planning applications.
<b>6.1.3</b>	Core Strategy Policies CS1, CS3, CS5 and CS11 seek to steer new housing to sites within market towns, other 'key centres' and certain named villages. Policy CS4 also allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen; these hubs and clusters were designated as part of the adoption of the Council's Site Allocations and Management of Development (SAMDev) plan.
<b>6.1.4</b>	The Council is satisfied it can demonstrate a deliverable 5 year supply of housing land to meet housing need through the sites identified in the SAMDev document and through provision of housing across the county through the community hub and cluster approach; the majority of recent appeal decisions support this position. Consequently the Council's policies on the amount and location of residential development should be regarded as up-to-date and that there is no pressing need to support sites beyond the boundaries of the designated settlements by way of supplementing the County's housing targets.
<b>6.1.5</b>	Monday Town is identified neither as part of a community hub nor cluster. As such, in terms of policy, the development site is classified as open countryside; residential development within the countryside is generally confined to the exceptions stipulated by CS5 and MD7a. As is the subject of this application, the erection of replacement dwellings falls within the exceptions stipulated under policy MD7a. Due to the open countryside policy status of the development site, any proposal must adhere to the specified replacement dwelling criteria in order to be deemed acceptable.
<b>6.1.6</b>	In regards to replacement dwellings, policy MD7a states that " <i>replacement dwellings should not be materially larger and must occupy the same footprint unless it can be demonstrated why this should not be the case</i> ". In this instance the footprint of the replacement dwelling proposed is over 150% larger than the existing property; the justification for the increase focuses on the existing scale and character being of little merit, thus there is scope to provide a building of aesthetic benefit for the site without needing to echo the existing 'architecturally poor building'. Such justification is not considered adequate, with an increase of this size considered fundamentally contrary to the aforementioned policy criteria.
<b>6.2</b>	<b>Siting, scale and design of structure</b>
<b>6.2.1</b>	Proposed is the erection of a modern replacement dwelling. The two-storey modern property, featuring a distinctive modern roof design and vaulted ceilings within shall increase the internal accommodation levels by approximately 85%. The bulk and massing increases are however more substantial, where there is little accommodation contained at first floor level; accordingly the property's footprint increase is some 168.5m <sup>2</sup> – roughly 177% - in order to accommodate the substantial accommodation gain. The dwelling as proposed is of a larger scale than the majority of neighbouring dwellings; however in considering the generous plot size, it is not considered that the development is neither cramped nor contrived.
<b>6.2.3</b>	In terms of siting, the property shall sit in the same location as its predecessor; some efforts are made to sink the building into the landscape where it shall be partially submerged. The multi-level design of the property responds to the local topography, in trying to reduce the overall visual bulk. The property design – silhouette and appearance – is intended to echo the agricultural characteristics of the locality. The Design, Access and Planning Statement notes that the shallower

	roof pitch is a nod towards historic ‘bank barns’; however such pitches are more typical of modern steel barns. It is acknowledged however that modern barns to exist adjacent to the site, thus echoing this design selection.
<b>6.2.4</b>	A generally modern palette of materials are proposed for the works. The primary construction material will be a large format porcelain rainscreen tile cladding dark grey in colour, atop a local stone plinth. Dark grey profiled pre-weathered zinc metal sheet cladding shall constitute the roofing. Though not typical of domestic construction materials in this locality, the selected materials do echo the character and appearance of those typically used in the construction of modern agricultural buildings; as such the palette is not fundamentally inappropriate.
<b>6.2.5</b>	Within the submitted Design, Access and Planning Statement the agent notes his interpretation of the Council’s adopted replacement dwelling policies, as presuming that the criteria should only be applicable where the scale and character of the original dwelling is of significance, and is worthy of preservation through the design of any new dwelling; the agent proceeds to determine the original dwelling of no architectural nor historic merit. The relevant policy states that replacement dwellings have a requirement to be sympathetic to the character of the original building; the wording offers no exemptions for non-compliance with these design criteria. Therefore, where there is no caveat to indicate otherwise, this proposed replacement dwelling is required to be sympathetic to the character of the original building regardless of the merit, or perceived lack of, of the existing design. By virtue of; its vast increase in footprint and scale, and design overhaul – superseding a traditional cottage style with an “ <i>unashamedly modern</i> ” property which would “ <i>reflect contemporary living</i> ”- which makes no effort to incorporate the existing character, the proposal is not considered to comply with the aforementioned policy criteria.
<b>6.2.6</b>	The agent has made reference to paragraph 79 (formerly 55) of the NPPF in regards to innovative design, where he feels the proposal sufficiently outstanding as to warrant merit in this regard. In order to meet the strict tests of paragraph 55 we would be looking for evidence of something in the design concept that is genuinely untried that pushes the boundaries of architecture beyond simply aesthetic conventions; no specific information or detail is given in respect of the design and material choices with regards to their performance in testing new boundaries or technology. Therefore at this juncture it is not clear what true innovation is delivered through this design concept as it appears that elements of the design repeat what has been done before. Similarly the intention for the dwelling to incorporate the Passivhaus approach is commendable but not a new approach. It is also emphasised that the NPPF does not change the status of the adopted Development Plan; where that plan is up to date then planning decisions must be made in line with the development plan. In this case, the proposal is contrary to the development plan policies set out above.
<b>6.3</b>	<b>Impact on visual amenity and the non-designated heritage asset</b>
<b>6.3.1</b>	Relating to a non-designated heritage asset, the impact of the proposal on the heritage nature of the existing property is a factor worthy of consideration. The development site also occupies a prominent hilltop countryside location, where a public footpath runs by the Western curtilage boundary thus affording close range views; accordingly, visual amenity must be carefully considered prior to the permitting of works at this location.
<b>6.3.2</b>	Whilst the contemporary design approach is not necessarily inappropriate, the

	<p>replacement dwelling must be of sufficient merit as to mitigate the loss of the heritage asset. It is acknowledged that the heritage is significantly altered since its formation, and that the works have potential to improve the setting. Concerns are however raised regarding the visual prominence of the site, particularly where the bulk of the proposal in comparison to its predecessor is significantly increased. The overall massing is notable in that the split roof design pushes the bulk of the property to its ends; where the dwelling is already elongated, this redistribution of bulk is viewed negatively. Furthermore the split roof profile gives the property a disjointed feel; this coupled with the negative mass distribution gives the property a somewhat 'sprawled' appearance thus exacerbating the issues of visual prominence.</p>
<b>6.4</b>	<b>Permitted development</b>
<b>6.4.1</b>	<p>As supporting information for the increase in scale, the agent has provided drawings to illustrate how the current dwelling could be extended by way of side and rear extensions. Under permitted development rights the agent states the property could be extended to give a total floor area of nearly 400m<sup>2</sup>, where the currently proposed replacement dwelling has a floor area of 308m<sup>2</sup>. This would result in sporadic development, thus the agent deems a more appropriate solution for the site would be to permit the proposed scheme which has been carefully designed in regards to the context of the site. The agent describes the PD additions as a fall-back which should be considered a material consideration for determining this application.</p>
<b>6.4.2</b>	<p>Part 1, Class A, paragraph (ja) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) details that any total enlargements proposed to the dwellinghouse where joined to existing enlargements of the <i>original</i> dwellinghouse must be considered in conjunction. 3 former permissions have granted for additions to this property; both the LPA and agent are in agreement that the <i>original</i> dwellinghouse has been altered. In assessing the drawings provided by the agent regarding PD extensions it is not considered that the extent of permitted development works illustrated could be lawfully implemented since many of the works illustrated protrude from existing extensions – thus are subject to the restrictions of paragraph (ja) - rather than from original walls of the property; accordingly this invalidates the alleged fall-back position of a 101.3% permitted development increase.</p>
<b>7.0</b>	<b>CONCLUSION</b>
<b>7.1</b>	<p>Due to the open countryside policy status of the development site, any proposal must adhere to the specified replacement dwelling criteria in order to be deemed acceptable; by virtue of its scale and design, the proposal is not considered to meet these policy stipulations. As such the proposal is considered contrary to Policies CS4, CS5 and CS6 of the Shropshire Core Strategy and MD7a of the SAMDev Plan, as well as the overall aims and objectives in relationship to sustainable development as set out in the NPPF. There are no other material considerations which outweigh this conclusion in the overall planning balance; planning permission is therefore refused.</p>
<b>8.0</b>	<b>Risk Assessment and Opportunities Appraisal</b>
<b>8.1</b>	<b>Risk Management</b>

	<p><b>There are two principal risks associated with this recommendation as follows:</b></p> <ul style="list-style-type: none"> <li><b>☐ 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.</b></li> <li><b>☐ 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.</b></li> </ul> <p><b>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.</b></p>
<p><b>8.2</b></p>	<p><b>Human Rights</b></p>
	<p><b>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.</b></p> <p><b>First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.</b></p> <p><b>This legislation has been taken into account in arriving at the above recommendation.</b></p>
<p><b>8.3</b></p>	<p><b>Equalities</b></p>
	<p><b>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.</b></p>
<p><b>9.0</b></p>	<p><b>Financial Implications</b></p>
	<p><b>There are likely financial implications if the decision and / or imposition of</b></p>

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and SAMDev Policies:  
 CS1 - Strategic Approach  
 CS3 - The Market Towns and Other Key Centres  
 CS5 - Countryside and Greenbelt  
 CS11 - Type and Affordability of housing  
 MD2 - Sustainable Design  
 MD7A - Managing Housing Development in the MD7A - Managing Housing Development in the Countryside

### RELEVANT PLANNING HISTORY:

PREAPP/17/00455 Proposed Replacement Dwelling PREUDV 20th September 2017  
 18/02962/FUL Erection of replacement dwelling; installation of package treatment plant PDE  
 SA/76/0791 Erection of an extension to provide utility room and porch and erection of a private double garage. PERCON 14th October 1976

## 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 Mrs Heather Kidd

Appendices

APPENDIX 1 - Conditions

## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITION(S)**

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

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

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

### **Informatives**

1. Despite the Council wanting to work with the applicant in a positive and proactive manner as required in the National Planning Policy Framework paragraph 38, the proposed development is contrary to adopted policies as set out in the officer report and referred to in the reasons for refusal, and it has not been possible to reach an agreed solution.

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