

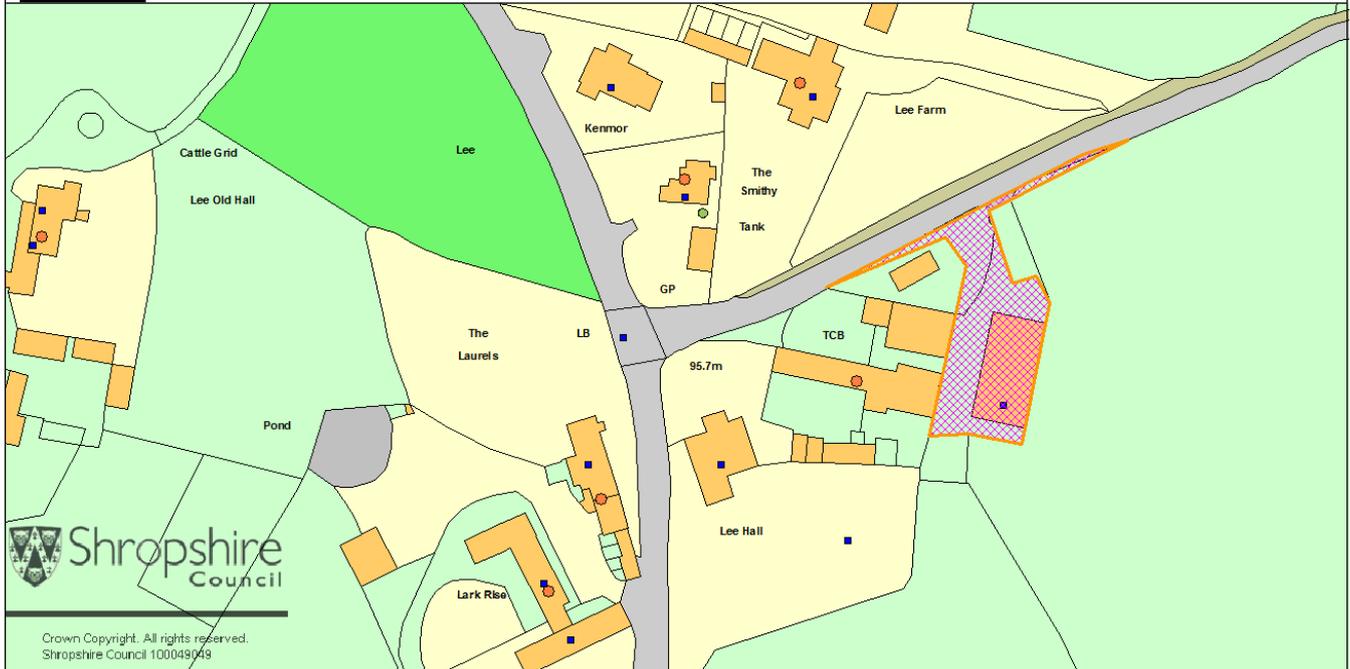
## Development Management Report

Responsible Officer: Tim Rogers  
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### Summary of Application

<b><u>Application Number:</u></b> 18/05140/OUT	<b><u>Parish:</u></b>	Ellesmere Rural
<b><u>Proposal:</u></b> Outline application for the erection of a dwelling and detached garage to include means of access (Resubmission)		
<b><u>Site Address:</u></b> Proposed Dwelling East of Lea Hall Farm Lee Ellesmere Shropshire		
<b><u>Applicant:</u></b> Mr And Mrs J Hearn		
<b><u>Case Officer:</u></b> Ollie Thomas		<b><u>email:</u></b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>

**Grid Ref:** 340544 - 332394



**Recommendation:- Refuse**

1. The proposed development site, in replacement of an existing agricultural building, is considered to be located on the edge of the settlement of Lee, a designated Community Cluster as found at S8.2(iv) of the SAMDev Plan, whereby the type and form of development fails to comply with the specific settlement policy requirements, in that only limited infill and conversions will be acceptable. The proposed development cannot be considered as infill development due to its location and neither is the existing structure capable or worthy of conversion, with any residential development in this location having an adverse impact upon the character and setting of both the settlement and landscape. The proposed development is therefore considered as representing unsustainable development that fails to comply with local policies CS1, CS4, CS6 and CS17 of the Core Strategy, MD1, MD2, MD3, MD12 and MD13 of the SAMDev Plan and also the main aims and objectives of the National Planning Policy Framework.
2. 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.

**1.0 THE PROPOSAL**

- 1.1 This application is seeking outline consent for the erection of a single detached dwelling, with detached garage and to include access matters concurrently, with all matters being reserved for later approval.
- 1.2 This application is a resubmission and constitutes the applicants 'free-go' following the recent refusal of planning ref: 18/00023/OUT. Refused for failing to comply with the Local Development Plan and providing insufficient information in regard to highway safety impacts. To which, the proposal has remained identical, albeit a slight variance in the red-line edge and included enhanced details regarding the access arrangements onto the highway.
- 1.3 The applicants have also recently sought permission for a similar scheme on land within the private garden space of the main farmhouse, this was withdrawn due to the application being sought in outline, yet due to the proximity of designated heritage assets, additional supporting documents were requested, in accordance with Part 3 of the Town and Country Planning (Development Management Procedure) Order 2015, but not supplied; planning ref: 18/03333/OUT.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The development site lies to the east of Lea Hall Farm and in replacement of an existing modern portal framed agricultural building, located on the edge of the rural settlement of Lee, south of Ellesmere. The site is directly adjoined by the associated farmstead – part of which is Grade II listed - to the west, with open and undulating agricultural fields on all its other boundaries, with access to the site provided through an existing agricultural access directly off the A528, an unclassified derestricted section of highway leading from Lee to Spunhill. The site

is enclosed on its western and southern boundaries by existing fencing that runs right around the existing building, with the land sloping downhill beyond.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

**3.1** The Parish Council submitted comments in support of the application, contrary to the Case Officers recommendation, following consultation with the Local Member whom agreed with the Parish Councils comments and provided their material considerations for support, the Chair and Vice Chair of the Planning Committee resolved that the application be determined by members at Committee.

### **4.0 Community Representations**

#### **4.1 - Consultee Comments**

##### **4.1.1 SC Drainage (SuDS) – No objections.**

##### **4.1.2 SC Affordable Housing – No contribution required.**

If the development is policy compliant then whilst the Council considered there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre-dates the judgement of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.

##### **4.1.3 SC Highways Authority – No objection subject to conditions.**

Based upon the information contained within the above submitted statement it is considered that, subject to conditions being included on any approval notice, there are no sustainable Highway grounds upon which to base an objection.

##### **4.1.4 SC Ecology – No objection subject to conditions and completed Habitats Regulation Assessment Matrix.**

Provided that the works are carried out as proposed, Shropshire Council has not identified any potential effect pathway by which the proposed activity might impact upon any European designated sites. The HRA Matrix must be included in the Planning Officers report for the application and must be discussed and minuted at any committee at which the planning application is presented.

##### **4.1.5 Ellesmere Rural Parish Council – In support.**

The Parish Council strongly supports this application and is in favour of this revised scheme and the revised location.

The dwelling falls within the recognised named settlement of Lee (CS5) and

complies with planning policy. The revised location lessens potential impact on the listed building and is sympathetic to the character of the settlement (CS4\_). Councillors note no drainage details have included and request that the system be a standalone arrangement. The proposals are considered to be appropriate in scale, and design and appropriate in the context of the local area (CS6).

The Parish Council supports this application.

#### **4.1.6 Cllr. Brian Williams (Local Ward Member for The Meres Division) – Committee request.**

“Thank you for your comprehensive review of the reasons why you are unable to recommend the above application for approval. However I differ from you in that I consider the site is contiguous with the existing core of the centre of the settlement and should not be considered as being outside the settlement. So far as the housing target for the Lee cluster is concerned, there is still headroom within the target allocation and the conclusions that there would be harm to the sustainability of the countryside is a matter of opinion rather than demonstrable fact. These are all material matters which merit the consideration of the Committee, especially as I would anticipate that there would be an appeal if the application is refused. It is better for any officer’s judgement if his recommendation is supported by Committee members and this can be evidenced to the appeal Inspector. I cannot concur with this application being decided under delegated powers.”

#### **4.2 - Public Comments – None received at the time of writing.**

### **5.0 THE MAIN ISSUES**

**Principle of development**  
**Highways and access matters**  
**Other matters.**

### **6.0 OFFICER APPRAISAL**

#### **6.1 Principle of development**

**6.1.1** What with this proposal being identical in location and scale to that previously refused permission, planning ref: 18/00023/OUT, and with there being no changes to the current Local Development Plan, its assessment and determination of compliance with local policy will remain similar. Furthermore, the application is not accompanied by any Planning Statement, or similar, to suggest the proposals compliance with local policy or to suggest why the judgement made at 18/00023/OUT was inaccurate.

**6.1.2** The application site forms a parcel of land, currently occupied by an agricultural building, in association with the adjoining Lea Hall farmstead, neighboured most closely with its farm complex of traditional (Grade II listed) and more modern agricultural buildings.

**6.1.3** Despite there being no doubt that Lee Hall farmhouse falls within the settlement confines of Lee (undefined), with Lee constituting a relatively close-knit small

cluster of housing, in the immediate context, around the highway junction of C1031/25 and U1302/10. Albeit there are surrounding small groups of houses just outside of this central cluster, namely to the north-west of Lee, but surrounding this application site, the wider farmstead clearly represents the edge of the settlement in an easterly direction. Furthermore, with there being an agricultural yard and barn complex between the application site and the main cluster of housing, it is questionable as to whether the site lies actually within Lee, as policy CS4 would require. Instead it is reasonable to provide that the application site constitutes an edge of settlement location, equally resisted for new housing within CS4.

- 6.1.4** Lee, a small scale rural settlement, has been identified within the SAMDev plan as a Community Cluster and able to accommodate additional sustainable growth, dependant on the sites compliance with its settlement policy, S8.2(iv), which provides;

*“the settlements of Tetchill, Lee and Whitemere are a Community Cluster where development by infilling, groups of houses and conversions may be acceptable on suitable sites within the development boundary identified on the Policies Map. The housing guideline across the Cluster is 20 dwellings. A single allocated site identified on the Policies Map will deliver around 10 dwellings in Tetchill. In Lee and Whitemere development will be limited to single infill plots and conversions.”*

- 6.1.5** Lee, like many small rural settlements, has been identified without a development boundary defining its confines, as such each development site is determined on the existing built form of the settlement and the relationship the site has with the existing pattern and built form. As mentioned, the site holds an edge of settlement location, failing to lie within the settlement and upon agricultural land, in replace of a currently used agricultural buildings, resulting in the proposal unable to rely on the presumption of utilising previously developed land – the NPPF explicitly excludes agricultural land/development from this definition, Annex 2.

- 6.1.6** Notwithstanding the above, S8.2(iv) only permits new housing on infill sites or those which see the conversion of existing building. This proposal is clearly not a conversion, so instead relying on the site constituting an infill plot. Although there is no definition of ‘infill’ within local or national policy, a general presumption of infill development is where one would expect to see residential housing, typically between two residential curtilages and within an urbanised/built-up area. In recognition that the settlement policy allows infill development, its use is more specifically aimed at achieving housing that is directly bounded by residential housing and contextually suited for housing. The application site is neither bounded by housing, nor in a location where the reasonable person would expect housing – instead the site is more suited to remaining in its current agricultural form, being read against the rural open countryside extending beyond the site.

- 6.1.7** It is recognised that in order to achieve Shropshire’s growth strategy (economic and housing), and in accordance with the NPPF, the rural areas are required a degree of ‘rebalancing’ through focusing new development in the designated areas (Community Hubs and Clusters) and through the overarching presumption in favour of sustainable development. However, Shropshire is able to demonstrate a robust housing land supply of 6.04 years, consequently local planning policies remain up-to-date and contribute to achieving sustainable development, through

development of the right type of housing, in the right location and within the right timescales.

**6.1.8** Additionally, the Council's monitoring report (Fiver Year Hosuing Land Supply Statement, September 2017) provides that Lee (and the remainder of the Cluster) have had 5 completions, with an additional 14 sites within permission – totalling 19 deliverable permissions. The Clusters housing guideline figure provides an additional 20 new dwellings throughout the plan period (2006-2026), resultantly the Cluster is on track to meet and potentially exceed its guideline figure. There is therefore no requirement to allow new development in areas that are not wholly compliant with the Development Plan.

**6.1.9** Based on the above, the proposal for a new detached dwelling is considered unsustainable, having adverse impact on all strands of sustainability and is therefore unable to have its principle of development either established or supported.

**6.1.10** It is worth noting that Lee, and its wider Community Cluster, have been removed from the Local Plan Partial Review as an identified settlement for additional housing. Instead the settlements will be areas of countryside, where new open market housing is somewhat resisted. However, this plan Review is still in its early stages, out for public consultation and therefore cannot be attributed any significant weight.

## **6.2 Highways and access matters**

**6.2.1** The proposal is concurrently seeking consent for the provision of a new domestic access point onto the adjacent highway. The development site is located on the eastern extremities of the settlement, with the access to the proposed new dwelling provided just west of an existing agricultural access point so as to achieve greater visibility, leading off the derestricted unclassified road, U1302/ 10.

**6.2.2** The submitted plans show the proposed access arrangement and provision of visibility splays. The details of the visibility splays as dimensioned are considered to be acceptable for the local highway conditions. The proposed access layout is also considered to be acceptable to serve the proposed development. The internal layout as currently indicated, provides an acceptable parking and turning arrangement, but this remains a reserved matter to be decided subsequently.

## **6.3 Other matters**

**6.3.1** This application is seeking outline consent with access only, with all other matters (landscaping, layout, design and scale) to be reserved for later approval. As such, only a simple indicative plan has been submitted to show the site as being capable for the erection of a single dwelling, with detached garaging and independent access, parking and turning area. This indicative plan is able to show the siting of a moderately scaled dwelling, sited to the rear, and east, of the site, away from neighbouring agricultural development, attempting to provide minimal impact on all amenities and sufficient space for the parking/turning of vehicles sharing an existing access with the neighbouring properties.

### **6.3.2 - Ecology matters**

The site is located in a rural location accessed via a track off a small hedgerow-lined lane off a small lane which serves the settlement of Lee. A detached residential dwelling, four agricultural building and associated hardstanding border the site to the west. Improved grass fields border the site to the south and east and a small grass field and residential dwellings are located beyond the lane to the north of the site. A field pond is located in the field to the south of site approximately 80m from the development footprint and Lee Wood, an ancient replanted woodland, is located 400m east of the site. The surrounding landscape is dominated by mixed agricultural fields bordered by hedgerows, scattered ponds and woodlands. There is also one designated site within 2km of the application site, White Mere Site of Special Scientific Interest (SSSI), which also forms part of the Midland Meres and Mosses Phase 1 RAMSAR site, is located approximately 620m north-east of the application site.

Although there are numerous ecological assets within close proximity to the site, no protected species were found within the site; however, the development could affect the local population of Great Crested Newts, as such ecological enhancements will be conditioned to ensure their protection.

Following consultation with the Councils Ecologist, following this report is an Officer completed Habitats Regulations Assessment matrix, as requested by the councils Ecology team.

### **6.3.3 - Impact on designated heritage assets**

As mentioned, the site lies within close proximity to a Grade II listed agricultural barn, within the main yard area of Lee Hall. This designated heritage asset has failed to be recognised within submitted documents, equally no form of a heritage assessment accompanies this application. Whilst it is recognised that this application is in Outline (with access matters) only, at the time of planning ref: 18/03333/OUT, it was requested that additional details be submitted so as to consider and ensure this development would not harm the setting or character of this heritage asset. As the two applications are for a similar proposal, it is to be expected that an additional application in roughly equal proximity would be accompanied by such. However, it is expected that the removal of a modern portal framed building, could provide a negligible impact, or betterment to the setting of this heritage asset. Notwithstanding this, until the setting, context and significance of this listed building has been evidenced, Officers are unable to conclude as to whether a residential dwelling in this location will not result in any harm or loss of this heritage asset, in accordance with both local policies and para 66 of the NPPF.

## **7.0 CONCLUSION**

The proposed development for the erection of a single detached dwelling in outline, with access matters being concurrently determined, is unacceptable. The application site fails to fall within the settlement of Lee, whilst failing to comply with the settlement specific policy requirements, S8.2(iv), of infill development or a conversion. The site holds an edge of settlement, visually separated from the main cluster of housing within the settlement by agricultural buildings, being bounded by rolling open fields and having an inherent rural and open characteristic, whereby

development of this site would result in domestic encroachment into the open countryside. Despite the limited benefits attributed from the proposal, the negatives arisen from the proposals unsustainability and failure to comply with the local development plan and the main aims of the NPPF result in a proposal that is unable to weigh in favour of approval. It is therefore recommended that permission be REFUSED.

## **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.

## Habitats Regulations Assessment (HRA) Screening Matrix

### 1.0 Introduction

The proposal described below has the potential to adversely affect a designated site of international importance for nature conservation. The likelihood and significance of these potential effects must be investigated.

This is a record of the Habitats Regulations Assessment (HRA) of the project at Proposed Dwelling East Of Lea Hall Farm, Lee, Ellesmere, Shropshire (18/05140/OUT), undertaken by Shropshire Council as the Local Planning Authority. This HRA is required by Regulation 61 of the Conservation of Habitats and Species Regulations 2017, in accordance with the EC Habitats Directive (Council Directive 92/43/EEC) before the council, as the 'competent authority' under the Regulations, can grant planning permission for the project. In accordance with Government policy, the assessment is also made in relation to sites listed under the 1971 Ramsar convention.

Date of completion for the HRA screening matrix:

10th December 2018

HRA screening matrix completed by:

Sophie Milburn  
Assistant Biodiversity Officer  
sophie.milburn@shropshire.gov.uk  
Tel.: 01743 254765

### 2.0 HRA Stage 1 – Screening

This stage of the process aims to identify the likely impacts of a project upon an international site, either alone or in combination with other plans and projects, and to consider if the impacts are likely to be significant. Following recent case law (*People Over Wind v Coillte Teoranta C-*

323/17), any proposed mitigation measures to avoid or reduce adverse impacts are not taken into account in Stage 1. If such measures are required, then they will be considered in stage 2, Appropriate Assessment.

## 2.1 Summary Table 1: Details of project

Name of plan or project	18/05140/OUT Proposed Dwelling East Of Lea Hall Farm, Lee, Ellesmere, Shropshire
Name and description of Natura 2000 site	<p><b>White Mere Midland Meres and Mosses Ramsar Phase 1</b> (31.97ha) is one of the richest of the North Shropshire meres for aquatic plants. It is included within the Ramsar Phase for its open water and carr habitats with the plant species <i>Carex elongata</i> and <i>Eleocharis acicularis</i></p> <p><b>Clarepool Moss Midland Meres and Mosses Ramsar Phase 1</b> (and part of West Midlands Mosses SAC) (15.62ha) is a basin mire which has developed, in part at least, as a quaking bog (Schwingmoor). It is included within the Ramsar Phase for its Open Water and Basin Mire habitats with the species Dotted Footman.</p> <p>West Midland Mosses SAC (184.18ha) is a collection of sites which between them represent nationally important dystrophic water bodies, transition mires and quaking bogs.</p> <p>Annex I Habitats that are a primary reason for selection of site:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Natural dystrophic lakes and ponds</li> <li><input type="checkbox"/> Transition mires and quaking bogs</li> </ul> <p><b>Fenn`s, Whixall, Bettisfield, Wem and Cadney Mosses SAC and Midland Meres and Mosses Ramsar Phase 2</b> (949.2ha) together form an outstanding example of lowland raised mire. The site as a whole supports a wide range of characteristic acid peat bog vegetation. The moss complex, which straddles the border between Shropshire, England and Clwyd, Wales, is one of the largest and most southerly raised mires in Britain.</p> <p>Annex I Habitats that are a primary reason for selection of the SAC:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Active raised bog.</li> </ul> <p>Annex I Habitats present as a qualifying feature but not a primary reason for selection of the SAC:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Degraded raised bogs still capable of natural regeneration</li> </ul> <p>The site is included within the Ramsar Phase 2 due to its Raised Bog and Carr habitats with invertebrate assemblages and the plant species <i>polifolia</i>, <i>Dicranum undulatum</i> and <i>Sphagnum pulchrum</i></p>

**Brownheath Moss Midland Meres and Mosses Ramsar Phase 2** (31.32ha) differs from the other North Shropshire Mosses in consisting of a series of pools set in an area of heathland and woodland, rather than an expanse of peat. It is included in the Ramsar Phase for its Fen and Carr habitats with the species *Carex elongata*

**Cole Mere Midland Meres and Mosses Ramsar Phase 2** is one of the largest of the Shropshire meres, with an almost complete fringe of woodland. There is a comparatively rich flora of aquatic macrophytes and the aquatic invertebrate fauna of Cole Mere is particularly diverse. It is included in the Ramsar Phase for its Open water, Wet pasture and Carr habitats with the plant species *Carex elongata*

**Sweat Mere and Crose Mere Midland Meres and Mosses Ramsar Phase 2** (38.58ha) are two dissimilar meres constituting a site of exceptional importance. The meres and their surrounds form a complex of open water, reedswamp, fen and woodland habitats unrivalled in Shropshire for the variety of natural features of special scientific interest. It is included in the Ramsar Phase for its Open water, Swamp, Fen, Wet pasture and Carr habitats with the species *Carex elongata* and *Thelypteris palustris*

**Midland Meres and Mosses (Ramsar phase 1) Reasons for designation:**

- ☐ **Criterion 1a.** A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog.
- ☐ **Criterion 2a.** Supports a number of rare species of plants associated with wetlands. The site contains the nationally scarce six-stamened waterwort *Elatine hexandra*, needle spike-rush *Eleocharis acicularis*, cowbane *Cicuta virosa*, marsh fern *Thelypteris palustris* and elongated sedge *Carex elongate*.
- ☐ **Criterion 2a.** Contains an assemblage of invertebrates, including the following rare wetland species. 3 species considered to be endangered in Britain, the caddis fly *Hagenella clathrata*, the fly *Limnophila fasciata* and the spider *Cararita limnaea*. Other wetland Red Data Book species are; the beetles *Lathrobium rufipenne* and *Donacia aquatica*, the flies *Prionocera pubescens* and *Gonomyia abbreviata* and the spider *Sitticus floricola*.

**Midland Meres and Mosses (Ramsar phase 2) Reasons**

	<p>for designation:</p> <ul style="list-style-type: none"> <li>☐ <b>Criterion 1a.</b> A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog.</li> <li>☐ <b>Criterion 2a.</b> Supports a number of rare plants associated with wetlands, including the nationally scarce cowbane <i>Cicuta virosa</i>, elongated sedge <i>Carex elongate</i> and bog rosemary <i>Andromeda polifolia</i>. Also present are the nationally scarce bryophytes <i>Dicranum undulatum</i>, <i>Dircranum affine</i> and <i>Sphagnum pulchrum</i>.</li> <li>☐ <b>Criterion 2a.</b> Containing an assemblage of invertebrates, including several rare wetland species. There are 16 species of Red Data Book insect listed for the site including the following endangered species: the moth <i>Glyphipteryx lathamella</i>, the caddisfly <i>Hagenella clathrata</i> and the sawfly <i>Trichiosoma vitellinae</i>.</li> </ul>
Description of the plan or project	Outline application for the erection of a dwelling and detached garage to include means of access (Resubmission)
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No projects or plans have been identified which could act in-combination with this project to cause likely significant effects on any of these sites.

## 2.2 Statement

There are a number of European designated sites within 10km of this site:

- White Mere (part of Midland Meres & Mosses – Phase 1) lies ~630m NE
- Cole Mere (part of Midland Meres & Mosses – Phase 2) lies ~2.4km NE
- Sweat Mere and Crose Mere (part of Midland Meres & Mosses – Phase 2) lies ~2.6km SE
- Clarepool Moss (part of Midland Meres & Mosses – Phase 1 and part of West Midlands Mosses SAC) lies ~3.2km NE
- Fenn's, Whixall, Bettisfield, Wem & Cadney Mosses (SAC and part of Midland Meres & Mosses – Phase 2) lies ~6.5km NE
- Brownheath Moss (part of Midland Meres & Mosses – Phase 2) lies ~6.5km SE

The proposed development site does not lie within the water catchment of any of the European designated sites. No potential impacts in relation to water pollution are therefore predicted.

No impacts are anticipated from air pollution as the development is small.

There may be a very small increase in recreational pressure but this is not considered to be significant as the proposal is for 1 additional dwelling.

No effect pathways have been identified resulting from this development as proposed which would have the potential to impact on any European designated sites.

There is no legal barrier under the Habitats Regulations Assessment process to planning permission being granted in this case.

### **3.0 Guidance on completing the HRA Screening Matrix**

#### **The Habitats Regulations Assessment process**

Essentially, there are two ‘tests’ incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the ‘significance test’ and the other known as the ‘integrity test’. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the ‘integrity test’ need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –  
(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and  
(b) is not directly connected with or necessary to the management of that site,  
must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context ‘likely’ means “probably”, or “it well might happen”, not merely that it is a fanciful possibility. ‘Significant’ means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitats Regulations Assessment of Local Development Documents (Revised Draft 2009).

#### **Habitats Regulations Assessment Outcomes**

**A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.**

**If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted.**

## **Duty of the Local Planning Authority**

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulations Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.

## **10. Background**

### Relevant Planning Policies

#### **Central Government Guidance:**

National Planning Policy Framework

#### **Core Strategy and Saved Policies:**

CS1 - Strategic Approach

CS4 - Community Hubs and Community Clusters

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

CS11 - Type and Affordability of housing

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD7A - Managing Housing Development in the MD7A - Managing Housing Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S8 - Ellesmere

SPD Type and Affordability of Housing

### RELEVANT PLANNING HISTORY:

NS/88/1160/FUL Erection of agricultural workers dwelling for use in connection with Kenwick Grange Farm REFUSE 11th January 1989

18/03333/OUT Outline application for the erection of 1No dwelling (all matters reserved) NPW 21st August 2018

18/05141/FUL Outline application for the erection of a dwelling to include means of access (Resubmission) REC

18/00023/OUT Outline application for the erection of a dwelling with detached garage to include means of access REFUSE 2nd March 2018

18/03889/OUT Outline application (access for consideration) for the erection of one dwelling WITHDRAWN 13<sup>th</sup> November 2018

#### 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)
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Cabinet Member (Portfolio Holder) Cllr R. Macey
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Local Member Cllr Brian Williams
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Appendices None
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