

## Development Management Report

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### Summary of Application

<b>Application Number:</b> 19/01010/FUL	<b>Parish:</b>	Ellesmere Rural
<b>Proposal:</b> Erection of a detached dwelling		
<b>Site Address:</b> Proposed Dwelling East of Lea Hall Farm Lee Ellesmere Shropshire		
<b>Applicant:</b> Mr & Mrs Hearn		
<b>Case Officer:</b> Ollie Thomas		<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>

**Grid Ref:** 340544 - 332394



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**Recommendation:- Refuse.**

## Recommended Reasons for refusal

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 with any residential development in this location having an adverse impact upon the immediate and wider 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. The application site lies adjacent to, and forms part of, the historic farmstead to Lea Hall Farm, of which lies a Grade II listed barn and other non-designated heritage assets. The accompanying Heritage Impact Assessment (Berrys, Feb 2019) is not concurred with, in which the Local Planning Authority consider the proposed development will amount to less than substantial harm to the significance of these assets, in that it does not preserve these assets or their setting, whereby there are no public benefits resultant of the scheme to be weighted against this harm. The proposed development would result in indirect harm to the significance of the heritage assets through inappropriate development within their setting. Accordingly, therefore, the application is considered contrary to adopted planning policies CS6 and CS17 of the Shropshire Core Strategy; MD2 and MD13 of Shropshire SAMDev Plan, Section 16 of the NPPF and Section 66 of the Town and Planning (Listed Buildings and Conservation Areas) Act 1990.

3. It is considered that the overall design of the proposal is inappropriate within the site context. This, coupled with the siting of the structure incongruous to the existing built form and historic farmstead, would result in a building that would be visually detrimental to the character of the surrounding landscape and built environment. The development fails to comply with adopted planning policies CS5, CS6 and CS17 of the Shropshire Core Strategy; MD2 of the Site Allocations and Management of Development (SAMDev) Plan; the Council's adopted SPD of the Type and Affordability of Housing and the requirements of the National Planning Policy Framework, all aimed at securing good design that responds to local context and character and does not adversely affect visual amenity.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application is seeking full planning permission for the erection of single detached dwelling and detached garaging, following the removal of an existing agricultural building and forming part of Lea Hall Farm, lying to the east of the built farm complex.
- 1.2 This application site has been the subject of two previous applications, for the same proposal, but previously submitted in Outline, planning refs: 18/00023/OUT which was refused under delegated powers and 18/05140/OUT which was withdrawn at the North Planning Committee on the 5<sup>th</sup> February 2019.

- 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 too 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 was not forthcoming; planning ref: 18/03333/OUT.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1** The application 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 farming land 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 tight around the existing building, with the land sloping downhill beyond.

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

- 3.1** The Local Ward Member requested committee determination within their 21 day consultation period, raising material considerations. In further consultation with the Chair and Vice Chair of the planning committee, it was resolved that the application be considered at committee owing to the application sites planning history and the material issues raised.

## **4.0 Community Representations**

### **4.1 - Consultee Comments**

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

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

If the development is policy compliant then whilst the Council considers 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 NPPF, 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 – No objections subject to conditions.**

The access and visibility splays details are considered to be acceptable for the prevailing highway conditions and proposed development for a single dwelling.

#### **4.1.4 SC Regulatory Services – No objections.**

Historical maps identify an old gravel pit (circa 1901) which suggests quarrying may have already finished – it was still evident in 1926 but by 1975 it was gone. While it can be assumed that the former gravel pit has been filled in, given how long ago this occurred (over 40 years), Regulatory Services do not consider that the infilling of the former gravel pit is likely to have an impact on the proposed development site.

#### **4.1.5 SC Ecology – No objections subject to conditions.**

This application has been considered under the Habitats Regulations Assessment process in order to satisfy the Local Authority duty to adhere to The Conservation of Species and Habitats Regulations 2010. A Habitats Regulations Assessment (HRA) matrix is included at the end of this response – Appendix 2. 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.

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.

#### **4.1.6 SC Conservation – Object.**

The application cannot be supported as it is considered that it will cause less than substantial harm to the significance of the heritage assets on the site and therefore conflicts with both local and national policies in that it does not preserve the designated heritage asset and non-designated heritage assets nor their setting. This is a requirement of Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990.

There is no clear and convincing justification that the proposed development will sustain and enhance the significance of the heritage assets and that the proposed development within their setting will not cause harm to their significance. This identified harm the great weight that is required when considered the harm, in respect of designated heritage assets, should be weighed against the public benefits of the proposal (of which there are none in this case).

With regards to the scale of harm to the significance of the non-designated heritage assets identified (historic farmstead). The fact that the proposed development will cause indirect harm to the significance of the non-designated heritage assets through inappropriate development within their setting, should also weigh heavily when applying the balanced judgements required in the NPPF.

#### **4.1.7 Ellesmere Rural Parish Council – No response received.**

The Parish Council were consulted on the application on the 11<sup>th</sup> March 2019, with a reply-by date 31 days following. At the time of publishing this report no response has been received.

#### **4.1.8 Cllr Brian Williams (Local Ward Member for the Meres Division) – Committee request – 12/03/2019.**

“I request a reference to the North Planning Committee for a decision for all the reasons which were valid in the recently withdrawn outline application, principally the consideration whether this application lies in the community of Lee rather than in open countryside and whether the heritage considerations are relevant or override the improvement of the site in relation to the listed barn.”

#### **4.2 - Public Comments**

##### **4.2.1** The application was publicised by way of Site Notice erected on the 18<sup>th</sup> March 2019 and neighbour notifications to two neighbouring properties – Oakley Barn and Lee Farm.

At the time of publishing, no public representations have been received.

#### **5.0 THE MAIN ISSUES**

**Principle of development**  
**Siting, scale and design of structure**  
**Impact on amenities**  
**Highways and access matters**  
**Ecology and biodiversity matters**  
**Impact on designated heritage assets**  
**Drainage matters.**

#### **6.0 OFFICER APPRAISAL**

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

##### **6.1.1** Since the determination of those two previous applications (refs: 18/00023/OUT & 18/05140/OUT) on this site, there have been no substantive changes to the Local Development Plan. However, the Council have published their updated ‘Five Year Housing Land Supply Statement’ (21<sup>st</sup> March 2019), confirming the Council is able to evidence a continued healthy and robust delivery of housing supply, across the county – 6.78 years. Furthermore, the Councils Local Plan Review has since closed on its public consultation for ‘The Preferred Sites Consultation Document’; however, due to the continued primacy of this Review, no weight can be attached to this Review.

##### **6.1.2** Similarly to planning ref: 18/05140/OUT, there remains no Planning Statement, or similar, to suggest why the Officers judgement made on those previous refused and withdrawn applications was inaccurate or as to how the proposal is compliant with the Local Development Plan. Nonetheless, in response to the proximity of designated heritage assets, the application is accompanied by a Heritage Impact Assessment (Berrys, February 2019). As a result, and based on the above highlighted lack of any change in policy, this applications assessment and determination of compliance will remain somewhat similar.

##### **6.1.3** 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. For this purpose and in accordance with the NPPF, this application is not to be considered as previously developed land (Brownfield land), as provided within the NPPF Annex 2: Glossary: “Previously developed land... excludes land that is or was last occupied by agricultural or forestry buildings...”

**6.1.4** 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, so as to prevent fragmented development.

**6.1.5** 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.”*

**6.1.6** 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.

**6.1.7** Notwithstanding the above, S8.2(iv) only permits new housing on infill sites or those which see the conversion of existing buildings. 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.

**6.1.8** Despite there being no current adopted definition of ‘infill’, it is worth noting that the current Local Plan Review intends on providing its own definition: *“An infill site*

*consists of land with built development on at least two sides, which is also clearly within the built form of a settlement. It should not however result in a cramped form of development.”* (6.22, Consultation on Preferred Scale and Distribution of Development). Taking the two definitions of infill, it is evident that this application site is unable to conform with either, even in their loosest context.

- 6.1.9** 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 6.78 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.
- 6.1.10** Additionally, the Councils most recent monitoring report – 5 Year Housing Land Supply Statement, March 2019 – provides that Lee (and the remainder of the Cluster) has had 5 completions, with an additional 20 sites with planning permission: totalling 25 deliverable permissions. The Clusters housing guideline figure provides an additional 20 new dwellings through the plan period (2006 – 2026). Whilst it is acknowledged that the housing figure is only a guideline, on those occasions where the number of commitments surpasses this figure, further consideration is needed as development going beyond by too great a degree could result in unsustainable development that stretches infrastructure and community goodwill towards breaking point.
- 6.1.11** Despite this application being for a single dwelling only, the increase must be considered cumulatively, Cluster wide, whereby the exceedance of 6 equates to a 30% increase on the housing guideline. To this end, the application must be determined on the basis of its benefits and impacts, against the presumption in favour of sustainable development. The benefits of this application are limited and would be apparent regardless of scale or location, providing limited social, economic and environmental benefits.
- 6.1.12** For the above reasons, the proposed development of a single detached dwelling is considered unsustainable, unable to comply with the Local Development plan and providing no considerable benefits across the strands of sustainability. The principle of development, therefore fails to be either established or supported.
- 6.1.13** It is worth noting that Lee, and the wider Cluster, has been removed from the Local Plan Partial Review as an identified settlement for additional housing. Instead the settlement will be in an area of open countryside, where new open market housing is somewhat resisted and strictly controlled. However, this Plan Review is still in its primacy and therefore cannot be attributed any significant weight.

## **6.2 Siting, scale and design of structure**

- 6.2.1** The proposal is to provide a single detached dwelling, sat relatively central within the plot, in replace of an existing modern portal framed agricultural building. The dwelling will sit on the north-south axis; however, slightly angled so as to maximise the views outwards to the south and east. A detached double-bay garage/car port

lies in the north-east corner of the site, served off the large parking and turning area.

**6.2.2** The proposed dwelling is traditionally styled, being of a storey and a half height, having a somewhat dormer appearance – but not in proportions, height to ridge is 7.35m. The dwelling will provide a moderately large 3 bedroom dwelling in a ‘L’ shape configuration, with a side flanked reduced ridge narrowed section. Built of facing brick under a clay tile roof, the overall appearance is inherently domestic in nature. Whereas, due to the sites location and surrounding development, it would have been expected that a dwelling of rural, semi-agricultural vernacular be provided. On this basis, the proposed dwelling is considered inappropriate in reflecting the sites character and setting.

**6.2.3** The proposed dwelling is considered proportionate to the plot and appropriate in appearance. However, the orientation of the dwelling, sitting parallel with the highway, but off-angle for both the plot and neighbouring agricultural buildings creates a haphazard visual aesthetic for both plan form and incongruous in its relations with the farmstead as whole. This is further compounded by the location of the proposed detached garage building, to which attention will be drawn due to its height and roof proportion which conflicts with the historic character of the site and due to it being sited forward of the principal building line.

### **6.3 Impact on amenities**

**6.3.1** The site has no adjoining residential amenities, with residential properties to the west, beyond the agricultural buildings and on the opposing side of the highway – all a considerable distance away. Resultantly, the proposed dwelling would have limited impact on residential amenities by virtue of separation distances and existing screening through vegetation and existing buildings.

**6.3.2** Whilst it is considered that the proposed dwelling would not appear overbearing, obtrusive or result in any adverse impacts on neighbouring residents, with the dwelling sited a sufficient distance away from the highway edge. The redevelopment of this site would result in the extension of residential development into the countryside where the development would harm the immediate rural context. And despite an appropriate landscaping scheme softening this harm, the presence of a residential dwelling and all associated domestic paraphernalia is still considered harmful to the setting and character of the countryside and wider rural landscape setting, that would alter, to its detriment, the existing characteristics of the wider settlement.

### **6.4 Highways and access matters**

**6.4.1** The application 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 section of highway, U1302/ 10.

**6.4.2** 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 shown, provides an acceptable parking and turning arrangement.



## **6.5 Ecology and biodiversity matters**

**6.5.1** 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.

**6.5.2** 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 any approval notice, so as to ensure their protection.

**6.5.3** Following consultation with the Councils Ecologist, following this report is an Officer completed Habitats Regulations Assessment matrix – Appendix 1, as requested by the Ecology team.

## **6.6 Impact on designated heritage assets**

**6.6.1** The proposed development has the potential to impact upon a Grade II listed building and its setting. The proposal therefore has to be considered against both local and national policy and guidance, whereby special regard has to be given to the desirability of preserving the listed building and its setting, or any features of special architectural or historic interest, which is possesses as required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**6.6.2** Those buildings considered to be of value on the Lea Hall Farm site are the Grade II listed farm building, the farmhouse and associated historic outbuilding contained within the garden wall and the wall itself. All other building and structures within the farmstead are not considered to provide any enhancement to the setting of the heritage assets, indeed there are some which their removal would better reveal the significance of the heritage assets.

**6.6.3** As mentioned, accompanying this application is a Heritage Impact Assessment (Berrys, February 2019), which leads to the conclusion that the listed Grade II farm building should be considered for sensitive conversion before any new dwellings are considered within the hamlet. However, the Impact Assessment contained within is not concurred with as it is considered contradictory in its assessment made of the site and the buildings contained therein. The assessment also implies that the applicant wishes to build a house for themselves but have not considered the conversion of an existing building, as has been the case on or other sites in the hamlet.

**6.6.4** Whilst the removal of those remaining buildings and structures not considered to be heritage assets would provide an overall betterment to the setting and significance of those heritage assets. If they remain in agricultural use then this is expected in this rural farmstead location in the open countryside. However, the replacement of such a building in this location with a dwelling which has all its domestic detailing and paraphernalia, is considered to cause less than substantial harm to the significance of the heritage assets – the historic farmstead, Grade II listed farm building etc and their wider rural landscape setting.

## **6.7 Drainage matters**

**6.7.1** As provided within the accompanying Application Form, foul drainage is to be directed and disposed off via a newly installed package treatment plant, with surface water directed in to a soakaway. Both of these drainage measures are considered acceptable and appropriate for the scale and location of development.

## **7.0 CONCLUSION**

**7.1** The proposed development for the erection of a single detached dwelling, with detached garaging/car port, in replace of an existing agricultural building is unacceptable. The application sites holds an edge of settlement location, whilst failing to comply with the settlement specific policy requirements for Lee, S8.2(iv) of the SAMDev Plan. The site is visually separated from the main cluster of residential development through distance and 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 countryside.

**7.2** The orientation of the proposed dwelling fails to reflect the existing built pattern and form, whereby the dwelling would appear to conflict with and result in a unsympathetic visual appearance. With the design and style of this dwelling harmful to the rural setting of the countryside and altering the existing characteristics of the nearby settlement and historic farmstead.

**7.3** Despite the limited benefits attributed from the proposal, the negatives arisen from the proposals unsustainability, the harm to the setting and character of the surrounding environs and inability to comply with the Local Development and the main aims of the NPPF result in a proposed that is unable to weight 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.

## **10. Background**

### Relevant Planning Policies

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

**Core Strategy and SAMDev Policies:**

CS1 - Strategic Approach  
 CS4 - Community Hubs and Community Clusters  
 CS5 - Countryside and Greenbelt  
 CS6 - Sustainable Design and Development Principles  
 CS11 - Type and Affordability of housing  
 CS17 - Environmental Networks  
 CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development  
 MD2 - Sustainable Design  
 MD3 - Managing Housing Development  
 MD7A - Managing Housing Development in the Countryside  
 MD12 - Natural Environment  
 MD13 - Historic Environment  
 Settlement: S8 – Ellesmere

**Supplementary Planning Documents:**

SPD Type and Affordability of Housing

**RELEVANT PLANNING HISTORY:**

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

18/05140/OUT Outline application for the erection of a dwelling and detached garage to include means of access (Resubmission) WDN 7th February 2019

19/01010/FUL Erection of a detached dwelling 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)
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Cabinet Member (Portfolio Holder)
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Cllr G. Butler
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Local Member
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Cllr Brian Williams
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Appendices
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APPENDIX 1 - Habitats Regulations Assessment (HRA) Screening Matrix
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## APPENDIX 1 – 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 East Of Lea Hall Farm, Lee, Ellesmere, Shropshire (19/01010/FUL), 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:

1st April 2019

HRA screening matrix completed by:

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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	19/01010/FUL Proposed Dwelling East Of Lea Hall Farm, Lee, Ellesmere, Shropshire
Name and description of Natura 2000 site	<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>

**Clarepool Moss Midland Meres and Mosses Ramsar Phase 1**

(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.

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.

Annex I Habitats that are a primary reason for selection of site:

- ☐ Natural dystrophic lakes and ponds
- ☐ Transition mires and quaking bogs

**Fenn`s, Whixall, Bettisfield, Wem and Cadney Mosses SAC and Midland Meres and Mosses Ramsar Phase 2**

(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.

Annex I Habitats that are a primary reason for selection of the SAC:

- ☐ Active raised bog.

Annex I Habitats present as a qualifying feature but not a primary reason for selection of the SAC:

- ☐ Degraded raised bogs still capable of natural regeneration

The site is included within the Ramsar Phase 2 due to its Raised Bog and Carr habitats with invertebrate assemblages and the plant species *polifolia*, *Dicranum undulatum* and *Sphagnum pulchrum*

**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 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 plants associated with wetlands, including the nationally scarce cowbane *Cicuta virosa*, elongated sedge *Carex elongate* and bog rosemary *Andromeda polifolia*. Also present are the nationally scarce bryophytes *Dicranum undulatum*, *Dicranum affine* and *Sphagnum pulchrum*.
- ☐ **Criterion 2a.** 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 *Glyphipteryx lathamella*, the caddisfly *Hagenella clathrata* and the sawfly *Trichiosoma vitellinae*.

Description of the plan or project	Erection of a detached dwelling
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.