

Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 20/01796/FUL	Parish:	Edgton
Proposal: Temporary siting of static caravan for use as rural occupational dwelling and installation of septic tank (re-submission)		
Site Address: Hare Hill Farm Edgton Craven Arms Shropshire SY7 8HN		
Applicant: Mr L O'Brian		
Case Officer: Helen Tipton	email : planning.southern@shropshire.gov.uk	

Grid Ref: 338111 - 285694



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Recommendation:- Refuse:

Recommended Reason for refusal

1. Insufficient financial information has been provided to satisfactorily demonstrate the agricultural and horticultural business is viable in the longer term and the livestock enterprise would not be sufficiently stocked in order to meet the functional test to establish an essential need for a temporary or permanent agricultural worker's dwelling.

Consequently there are no exceptional circumstances sufficient to justify new residential development in this open countryside location and the proposal would fail to comply with paragraph 79 of the National Planning Policy Framework and adopted Development Plan policies CS5, MD7a and the adopted Type and Affordability of Housing SPD.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the temporary stationing of a static caravan for use as a rural occupational dwelling in connection with an agricultural business which occupies the site. It is intended for the temporary dwelling to be occupied by the applicants who are employed in the agricultural / horticultural business and the forestry business.
- 1.2 Precise caravan dimensions have not been given although an indication of the type of structure is provided in the submitted details and the applicants have suggested that a larch timber could clad the proposed caravan if considered necessary.
- 1.3 The application proposes to utilise an existing site access, with improved visibility to the entrance and an entrance gate, which would be set back 5 metres from the carriageway edge, whilst the caravan would be sited close to the site entrance.
- 1.4 Also proposed is the installation of a septic tank.
- 1.5 Approval was gained by the applicant in September 2017, (17/03847/FUL refers), for a general purpose agricultural building covering a footprint of approximately 13.9 metres x 6.4 metres. The existing field access was approved for upgrading under this same application, with a permeable track leading from the gateway to the approved agricultural storage building.
- 1.6 A planning application for the temporary siting of a caravan was previously submitted (19/04722/FUL) for the same purpose at the site in October 2019 and was assessed, at that time, by the Council's Agricultural Consultants, although it was established that the financial and functional requirements had not been clearly demonstrated and a request for a more detailed business plan was required. The application was subsequently withdrawn.
- 1.7 The submitted planning statement and other supporting details, including extracts of confidential financial correspondence are summarised, briefly as follows:
- The site relates to an existing horticulture business, (which provides a variety of produce including seasonal fruit and vegetables as well as some protected cropping) and a tree surgery company; a flock of 20 sheep, (1 ram, 12 breeding ewes, 5 ewe lambs and 2 ram lambs) and a flock of 10 chickens for egg production / sales.
 - The size of the holding extends to some 13 acres, (this includes additional rented land of 5.5 acres, although it is unclear whether the additional land is

already rented or whether this is dependent on the applicant's obtaining planning consent for the temporary occupational dwelling). The additional land would allow the sheep flock to increase, overtime to 38, (a separate sheep stocking spreadsheet specifies a total of 62 sheep as at March 2021, with 38 going into 2022). The additional land would free up and increase produce growing space to 0.72 of an acre and increase egg sales and meat production, following the increase of hens to 20. All of which are proposed during the year 2021.

2.0 **SITE LOCATION/DESCRIPTION**

- 2.1 Hare Hill Farm extends to approximately 2.7 hectares of land, which includes two polytunnels, a horticultural cropping area and a general purpose agricultural building, (as approved in September 2017). The applicant has confirmed that further rented land is available to them, although it is unknown where this sits in relation to the site.
- 2.2 The holding lies southeast and adjacent to the classified road, which leads between the B4385 / Lydbury North road and the road junction with Edgton and Basford. The site predominantly consists of fields of grazing land with mature trees and hedgerow defining much of the boundary. It is seated north / northwest and west of two residential dwellings and is accessed from the north western corner of the property.
- 2.3 The site is situated within the Shropshire Hills Area of Outstanding Natural Beauty, (AONB) and is within the water catchment area of the River Clun Special Area of Conservation, (SAC).

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Town Council have provided views contrary to delegated officers and the Local Member also supports the proposals, having requested, within 21 days of being validated, that the application should be decided by the Planning Regulatory Committee for material planning reasons: This invokes automatic referral for a committee decision under the scheme of delegation.

4.0 **Community Representations**

4.1 Consultee Comments

4.1.1 Edgton Parish Council - support.

Edgton Parish Council have conducted a survey across the village to see if anyone in Edgton objects to the planning application and received no objections. The applicants are young people seeking to establish a market garden and are well

liked and received in Edgton. They have provided a valuable service in the Covid-19 pandemic, providing a local food supply.

Recent theft at the site makes it important that the young entrepreneur's are able to live on site whilst their business is established.

We would wish to fully support young people establishing a local business in Edgton and they have the full support of the Parish.

4.1.2 Shropshire Council Ecology - comment.

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 (known as the Habitats Regulations). A Habitats Regulations Assessment (HRA) matrix is included within the officer's report 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 the River Clun SAC.

The following informative comments are recommended for inclusion with any approval decision:

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent.

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

Any vegetation clearance, tree removal and/or scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. No clearance works can take place within 5 metres of an active nest.

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

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid

creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

4.1.3 Shropshire Council Affordable Housing - no comment.

4.1.4 Shropshire Council Drainage - comment.

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at:

<https://www.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-for-developers.pdf> .

The provisions of the Planning Practice Guidance, Flood Risk and Coastal Change, should be followed.

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

4.1.5 Shropshire Hills AONB - comment.

The Shropshire Hills AONB Partnership is a non-statutory consultee and does not have a role to study the detail of all planning applications affecting the AONB. With or without advice from the AONB Partnership, the planning authority has a legal duty to take into account the purposes of the AONB designation in making this decision, and should take account of planning policies which protect the AONB, and the statutory AONB Management Plan.

Our standard response here does not indicate either an objection or no objection to the current application. The AONB Partnership in selected cases may make a further detailed response and take a considered position.

4.1.6 Shropshire Council Highways - comment.

No objection subject to the development being constructed in accordance with the following conditions and informative comments:

The visibility splay in an easterly direction from the site access, shown on the Proposed Block Plan (Drawing No. 73306/19/03 Rev A) shall be set out in accordance with the splay line shown. Any retained hedge or replacement hedge planting should be at least 1 metre behind the visibility splay line. The visibility splay shall be fully implemented in accordance with the approved details prior to the static caravan being occupied and shall thereafter be maintained at all times free from any obstruction.

Reason: To provide a measure of visibility from the access along the highway in the interests of highway safety.

The access apron, parking and turning areas shall be satisfactorily completed and laid out in accordance with the Proposed Block Plan (Drawing No. 73306/19/03 Rev A) prior to the static caravan being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety.

The access apron shall be constructed in accordance with the Shropshire Council's specification currently in force for an access and shall be fully implemented prior to the static caravan being occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification, no access gates or other means of closure shall be erected within 8.0 metres of the highway boundary.

Reason: To provide for the standing of parked vehicles clear of the highway carriageway in the interests of highway safety.

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

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

specification for the works together and a list of approved contractors, as required.

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

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e. wheelie bins & recycling boxes).

Specific consideration must be given to kerbside collection points, to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycle ways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety. Refer to:

<https://shropshire.gov.uk/media/2241/supplementary-planning-guidance-domestic-waste-storage-and-collection.pdf> .

4.2

Public Comments

4.2.1

This application was advertised via notice at the site on 13 May and one neighbouring property was notified by letter.

A total of twenty three representations have been received, including that from Councillor Houghton, all of which are in support of the application. These are summarised as follows:-

- Support of small rural business.
- Organic produce highly valued by the local community, particularly during the current pandemic.
- General support for local food production.
- The village is a mostly an ageing population and younger people living in the community is encouraged. The applicant's would be an asset to the community.
- Will increase employment opportunities in the area.
- Would not be detrimental to the AONB or rural location.
- Would prevent theft and prevent foxes from taking chickens.
- Would reduce applicant's overheads and represent a substantial saving in accommodation costs.
- Reduce traffic on the road network.
- No heavy traffic generated by the business and no other residential amenity impacts.
- Use of a compostable toilet would prevent the requirement for foul drainage.
- Council approach is short sighted. Discrimination against the applicant's age and lack of large investment.
- An agricultural building has already been approved at the site.
- Labour intensity of the business requires on-site accommodation.

- The Tree Surgery Business provides additional income to the smallholding.
- Council benefit in terms of rates / council tax.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and visual impact
Residential amenity
Highway safety
Drainage
Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Paragraph 79 of the National Planning Policy Framework (NPPF) states that planning decisions should avoid the development of isolated homes in the countryside unless one or more of the listed circumstances apply. In this case the exception being is if there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. In order for the Local Planning Authority to assess whether or not there is an 'essential need', evidence must be provided to demonstrate a need in order to qualify for an agricultural worker's dwelling.

6.1.2 The NPPF guidance on agricultural workers' dwellings is far less detailed than that in Annex A of the former Planning Policy Statement (PPS) 7, which required clear evidence of a firm intention and ability to develop the enterprise; a functional need and clear evidence that the proposed enterprise has been planned on a sound financial basis. The principle of applying 'functional' and 'financial' tests is well established and is still required in order to satisfy the Council's Core Strategy Policy CS5 and SAMDev Policy MD7a, (with the latter's explanatory text referencing the Annex A criteria explicitly). Applications for new rural workers' dwellings must prove there is an established functional need for an agricultural worker to be present on site for the majority of the time as opposed to it merely being convenient. "The protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one. Requirements arising from food processing, as opposed to agriculture, cannot be used to justify an agricultural dwelling.." and "If a functional requirement is established, it will then be necessary to consider the number of workers needed to meet it, for which the scale and nature of the enterprise will be relevant".

6.1.3 It then goes on to say that "If a new dwelling is essential to support a new farming activity, whether on a newly created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure, which can be easily dismantled, or other temporary accommodation" and the proposals should provide evidence of a firm intention and ability to develop the enterprise concerned; functional need, by satisfying the functional test; clear

evidence that the proposed enterprise has been planned on a sound financial basis and the functional need could not be fulfilled by another existing dwelling on the unit or in the area.

- 6.1.4 The financial test would involve demonstrating that the agricultural unit and the activity concerned would be established for at least three years and profitable for at least one; would be financially sound; have a clear prospect of remaining so and be capable of funding the development, (e.g. a new, permanent dwelling).
- 6.1.5 Core Strategy policy CS5 deals with proposed development in areas defined as countryside and seeks to resist development which is not proposed for specific rural needs or affordable housing. The stated purpose of CS5 is to strictly control new development in the countryside in accordance with national planning policies to protect these areas. Proposals in the countryside, on appropriate sites relating to dwellings to house essential countryside workers are considered acceptable in principle subject to satisfying general development control criteria and compliance with national planning policies; Core Strategy policy CS11 and the Council's adopted Supplementary Planning Document (SPD) on the Type and Affordability of Housing. Policy CS5 makes it clear that the onus rests with the applicant to demonstrate the essential need and benefit for the development proposed.
- 6.1.6 Also, in respect of rural occupational workers dwellings, the Housing Supplementary Planning Document, (SPD) states that applications 'need careful assessment in order to prevent abuse of the planning system' and decisions need to be *'based on an accurate assessment of the needs of the enterprise'*. Within paragraph 3.2 the SPD further states: *'Applicants will be required to demonstrate that a dwelling at the business is essential by showing a functional need for the occupier to be present at the business for the majority of the time, ("time" being 24 hours a day, 7 days a week)..'* Therefore, in order to demonstrate an essential need for a worker to live on site, it would be necessary to consider whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available on site for most of the time. The functional and financial tests in this case would be based mainly on predicted forecasts.
- 6.1.7 In terms of the horticultural side of the business, no information is provided in relation to the use of any supplementary systems installed in the polytunnels, or which are proposed to be installed as part of the development. In the former (2019) application, the Council's consultants advised it may be essential for a rural worker to be on site to ensure that automated operations of heating, watering and ventilation are overseen, although this information has not been provided.
- 6.1.8 Also, it was not considered that the applicant's forestry business and associated equipment could be taken into consideration. The forestry activities would take place in other locations away from the site and so it would not be essential for the tree surgery enterprise to be located here. Nor could the income generated from this business be included in the financial test.
- 6.1.9 It is understood that the agricultural business, (discounting the tree surgery business) has been in operation since 2019 and financial details for the year ending 2020 have now been provided, along with predicted forecasts for the

following two years, which shows a significant increase in sales. More than a 20x increase is predicted in the current financial year and almost a 34x increase is predicted during the following year, (discounting issues arising from the Coronavirus pandemic). However, although a list of expenses are now provided with the current application, it remains unclear how future sales forecasts have been calculated, with no full breakdown being given. As such it cannot be concluded that the proposed scheme would meet the financial test.

- 6.1.10 At the time of the previous 2019 application, the Council's consultants queried the proposed increase to a flock of 60 breeding ewes and the amount of land available to the applicants to allow for the suggested stocking rates. During that time it was stated the holding extended to 2.7 hectares, (approximately 6.67 acres) which included the yard area, polytunnels and cropping area. As aforementioned at paragraph 1.7, the land area now proposed includes an additional 5.5 acres of rented land, although it is unclear if this is currently in use. It is accepted that the rented land is now or will be available to the applicants to provide the necessary grazing and space for the proposed increase in stocking rates, although it is unknown where this additional land is sited in relation to Hare Hill Farm.
- 6.1.11 Notwithstanding this and based on the consultants' previous calculations, in terms of the proposed stocking rates alone, these would not substantially increase from the previous application and there would not be a requirement for a full time worker to reside on site. It has not been established that the horticultural element of the business would require a permanent presence on site and attendance to local markets or other outlets would not count to there being a permanent worker needed on site. As aforementioned, the tree surgery business cannot be taken into consideration since the associated forestry activities would take place off site and there would be no requirement for this business to operate, specifically from the site.
- 6.1.12 For information, the Council's Consultant's make reference to the 'John Nix Farm Management Pocketbook (50th Edition 2020)' and Standard Man Days, (SMD's) when calculating the labour requirement for the site. It suggests 275 SMD's are required in a year, which would equate to at least 2200 man hours per year (275 x 8 hours) or 2475 man hours per year (275 x 9 hours). For breeding ewes, 0.5 SMD's per head is given and for laying/broiler chickens, 0.03 SMD's per head is given with 15% added for management and maintenance. Based on maximum predictions proposed for sheep (62) and chickens (20), the SMD's would calculate to $36.34 \times 8 = 291$ man hours, (or $36.34 \times 9 = 327$ man hours), which would be far less than the 2200 or 2475 man hours required in a year to establish a full time worker on site. As such, the functional test would not be met.

6.2 **Siting, scale and visual impact**

- 6.2.1 The precise dimensions and appearance of the proposed temporary caravan are unknown, although it would be sited close to the site entrance, behind roadside hedgerow recommended for retention / replanting and close to the existing agricultural building. The surrounding topography and lower level of the site would screen the caravan from the wider AONB setting, which would negate the requirement for additional landscaping.

6.3 Residential amenity

- 6.3.1 It is acknowledged there is already an agricultural and forestry business operating from the site and the addition of a temporary caravan would not unduly affect the living conditions of neighbours, particularly when considering the distances afforded by the adjoining agricultural land.

6.4 Highway safety

- 6.4.1 The Council's Highways team accept, in principle the new access layout, although they recommend that the gate is moved further from the road, by 8 metres, rather than the 5 metres currently proposed. They recommend a condition in this regard, along with other conditions to control the layout of the access and visibility splay.

6.5 Drainage

- 6.5.1 Full drainage details, including details of soakaways and a drainage plan for the proposed septic tank, have been provided and the council's Drainage team are satisfied with the proposals. Although a supporting comment mentions that the applicant's would use a compostable toilet, this would not be the case.

6.6 Ecology

- 6.6.1 Shropshire Council Ecology have confirmed there would be no significant impact on the Special Area of Conservation, (SAC) as a result of the planning application and provided the works are carried out as proposed, there would be no objection to the scheme. The full Habitat Regulation Assessment (HRA) Screening Matrix is available to view in the officer's report.

7.0 CONCLUSION

It has not been clearly demonstrated that there is an existing viable commercial agricultural enterprise at this site and it has not been satisfactorily demonstrated that there is a financial and functional need to provide temporary or permanent residential accommodation for an agricultural worker to live at the site 24/7. The tree surgery business cannot be included in either the financial or functional assessment and although there are no overriding issues in terms of siting of a temporary caravan, its visual impact, highways, drainage or ecology, the principle of development would not be met and the proposal fails to comply with paragraph 79 of the National Planning Policy Framework, Local Plan policies CS5, MD7a and the adopted Type and Affordability of Housing SPD.

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

Shropshire Core Strategy and SAMDev Plan Policies:

- CS1 - Strategic Approach
- 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
- MD7A - Managing Housing Development in the Countryside
- MD7B - General Management of Development in the Countryside
- MD12 - Natural Environment

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

17/03847/FUL Erection of general purpose part open fronted agricultural building; formation of access track using existing vehicular access GRANT 22nd September 2017

19/04722/FUL Temporary siting of static caravan for use as rural occupational dwelling and installation of septic tank WDN 16th January 2020

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Planning Statement
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member Councillor Ruth Houghton
Appendices APPENDIX 1 - Habitats Regulations Assessment (HRA) Matrix

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 Hare Hill Farm, Edgton, Craven Arms, Shropshire, SY7 8HN (20/01796/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:

11th August 2020

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	20/01796/FUL Hare Hill Farm, Edgton, Craven Arms, Shropshire, SY7 8HN
Name and description of Natura 2000 site	River Clun SAC (14.93ha) supports a significant population of Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> . The River Clun SAC is currently failing its water quality targets particularly relating to ortho-phosphates. The current phosphate target for the river and particularly at the SAC is 0.02mg/l. Shropshire Council is working closely with Natural England and Environment Agency on developments within the Clun catchment. Shropshire Council formally consults Natural England on most planning applications within this area.

Description of the plan or project	Temporary siting of static caravan for use as rural occupational dwelling and installation of septic tank (re-submission)
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 the River Clun SAC.

2.2 Statement

An interim ‘Guidance note for developers on requirements for waste water management for any development in the Clun Catchment’ has been published by Shropshire Council, based on information and discussions with Natural England and the Environment Agency who have subsequently endorsed it. This guidance will be followed by the planning authority when making planning decisions until the Nutrient Management Plan for the Clun Catchment has been finalised by NE and the EA.

Under the Interim Guidance note, this development falls in the category:

2.2 Any development that does not increase the volume or concentration of waste water

Percolation test calculations have been provided and show that the dispersal time is within the acceptable limits and the land is therefore suitable for a drainage field.

The submitted details confirm that a Harlequin 2700L septic tank is to be installed and the drainage field will be a minimum of 18.16m². This will provide sufficient capacity for the number of potential residents of the static caravan.

In view of the above, and providing that the development is carried out according to the details submitted, the proposal will not lead to significantly increased concentrations of nutrients within the River Clun.

It is concluded that there are no pathways between the development and the River Clun SAC which could cause an effect, alone or in-combination with other plans or projects. An appropriate assessment (HRA Stage 2) is therefore not required.

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.