

Development Management Report

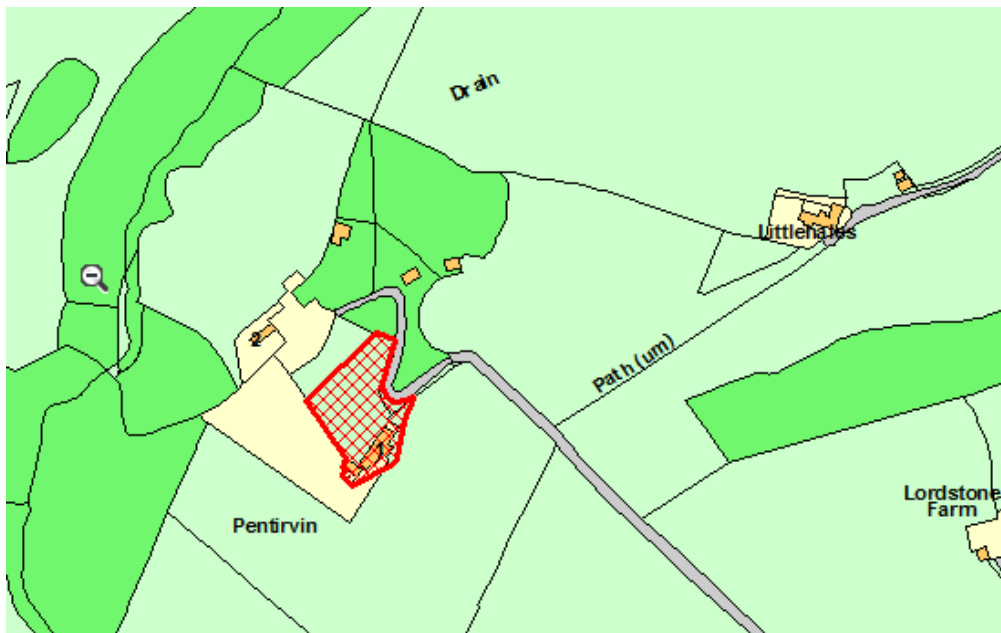
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 20/01997/FUL	<u>Parish:</u>	Worthen With Shelve
<u>Proposal:</u> Erection of a single storey, traditionally styled carbon neutral dwelling; together with siting of a treatment plant		
<u>Site Address:</u> Proposed Dwelling At Site Of 3 Pentirvin Minsterley Shropshire		
<u>Applicant:</u> Mrs Penelope Ellison		
<u>Case Officer:</u> Frank Whitley	<u>email :</u> planning.southern@shropshire.gov.uk	

Grid Ref: 333080 - 302046



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2019 For reference purposes only. No further copies may be made.

Recommendation:- Refuse:

Recommended Reason for refusal

1. The application is considered contrary to the Council's strategic settlement strategy, as set out in up to date policies CS1 and MD1 of the adopted Shropshire Core Strategy and Site

Allocations and Management of Development (SAMDev) Plan respectively. The proposal would constitute an isolated open market home in the countryside which would not fall within any of the circumstances listed in paragraph 79 of the National Planning Policy Framework where such development may be acceptable on suitable sites. Despite Pentirvin being a designated Cluster settlement according to CS4 and SAMDev Plan Policy S2.2(vii), the development is neither considered infill within the settlement or a conversion. Instead, the development would be sited in an unsustainable countryside location, contrary to the requirements of CS5 and MD7a. There is no indication that housing guideline numbers of SAMDev Plan S2.2(vii) will not be met in the Plan period, therefore there is no reason to consider the development in terms of the provisions of MD3. There are no material considerations which would justify a departure from the Development Plan in this case.

REPORT

1.0	THE PROPOSAL
1.1	The application seeks planning permission for the erection of a single storey, traditionally styled carbon neutral dwelling; together with siting of a treatment plant
1.2	The dwelling is to be single storey under a dual pitched roof. Internally it is to comprise typical living accommodation and 2 bedrooms. From the utility room there is to be an internal door to the integrated double garage.
1.3	The application is supported by a planning statement, ecology impact appraisal and arboricultural impact assessment.
2.0	SITE LOCATION/DESCRIPTION
2.1	Pentirvin is a small, relatively isolated settlement consisting of a handful of dispersed dwellings, approximately 5.5km SW of Minsterley and 1km from the A488 above the Hope Valley. Most dwellings associated with the settlement are set out along Pentirvin Lane which ends with a steep descent to a cul-de-sac at Stone House Farm.
2.2	The application site is almost at the end of a @400m track which leaves Pentirvin Lane to the NW. The site is known as 3 Pentirvin and comprises the ruins of a derelict dwelling just off a bend in the track which then continues to the existing dwelling of 2 Pentirvin at the end of a final steep descent.
2.3	3 Pentirvin comprises the recognisable remains of parts of a dwelling, these being two free standing gable end walls, wall head chimneys, and the rear wall. A small wing off the rear retains first and ground floor rooms and small loft space above. The dwelling was constructed from stone, rubble infill and some brick. To the side is a small brick outhouse still with surviving roof of slate. The remaining part of the site contains the collapsed remains of a timber barn. The ruins and proposed access route are overshadowed by a number of trees, mainly ash, elder, sycamore, damson and scrub.
2.4	A public footpath passes the site on more level ground @70m to the SE. However because the site is on a steep bank and surrounded by trees, it is well screened

	from outside views.
3.0	REASON FOR COMMITTEE DETERMINATION OF APPLICATION
3.1	The Parish Council have submitted a view contrary to officers. The Principal Planning Officer and Chair of the South Planning Committee have discussed how the application should be determined. With regard to relevant material planning considerations and the views of the Locally Elected Member it has been agreed that the application should be determined by Planning Committee.
4.0	Community Representations
	Consultee Comments
4.1	Worthen with Shelve Parish Council- supports No further reason given
4.2	Ecology- no objection
4.3	Shropshire Hills AONB Partnership- no comment in terms of support or objection: standard response only advising that planning policies and AONB management plan should be considered in making a decision
4.4	Trees- no objection subject to conditions The submitted tree report - Tree Condition Report, Arboricultural Impact Assessment, Arboricultural Method Statement, Tree Protection Plan (Forester and Arborist services Ltd, 24.04.20) identifies 8 individual trees and a single group of trees for removal, in order to implement the development. The trees comprise mainly self-set ash and a sycamore, ranging from 8m to 21m high and from young to mature in age. The group of trees comprises young damson no more than 5m high. The trees have grown up around the boundary and within the remains of the derelict cottage and outbuildings that are to be replaced with the proposed new dwelling. The most significant trees to be removed are T1 (a mature sycamore to the north-eastern end of the site), T4 (a mature, multi-stem ash on the eastern site boundary) and T8 (an early-mature, multi-stem ash on the southern corner of the site). The canopies of these three trees form a coherent group effect along the site boundary, if viewed in an arc ranging from north-east through to south. It will not be possible to plant new trees of any stature along this boundary if the existing trees are removed, because of the proximity of the new dwelling. The length of the south-east elevation will therefore be exposed to view (although it could potentially be partially screened if desired, by planting a new native species hedge along this site boundary). In this context, it should be noted that a public footpath crosses the field immediately south of the site, some 50m or so from the proposed dwelling. Other public footpaths run on the opposite (northern) side of the valley on which the site is located, around Luckley Barn (postcode SY5 0DS). The site might also be visible from vantage points on these footpaths or other locations, when viewed from the

	<p>north. No Visual Impact Assessment appears to have been carried out, to assess the implications of the proposed loss of trees and construction of the new dwelling and its integration into the surrounding landscape. Given the importance of landscape considerations within the AONB, I would recommend that such as an assessment should be considered, prior to determination.</p> <p>The tree report proposes planting three new trees to replace T1, T4 and T8 - a cut leaved grey alder (<i>Alnus incana 'lacinata'</i>), and two small-leaved lime (<i>Tilia cordata</i>) - all half standard in size. (Although the Proposed Block Plan (73802-20-03) shows the trees to be 'standard' size, so the actual size of new trees would need to be clarified as part of an approved landscaping scheme, in the event that planning permission is granted). In the long-term I consider that these new trees would provide suitable compensation for the removal of the three trees highlighted above. However, a number of other trees are also to be removed in association with the development and I would therefore recommend that additional tree and hedgerow planting should be undertaken. Not only to compensate for the loss of existing trees, but also to contribute towards a net gain for biodiversity, as espoused in current national planning policy and guidance (see, for example, NPPF 170[d]). As previously discussed, native hedgerow planting could be carried out along the southern boundary, and, whilst there might be limited scope for additional large canopy tree species within the site, the garden might suit orchard type fruit trees. New tree and hedge planting should use UK grown stock, sourced as locally as possible.</p> <p>On balance, subject to landscape considerations as previously discussed, on behalf of Shropshire Council Tree Team I have no objection in principle on arboricultural grounds to this application. Suitable measures should be taken to protect retained trees during any approved development, as specified in the submitted tree report. A final landscaping scheme and plan should also be agreed with the LPA, building on the currently submitted tree planting proposals. Therefore, if this application is determined without further assessment of the visual implications by a suitably qualified person, I would recommend the following tree protection and planting conditions be attached to any permission granted: (Recommended conditions are set out in consultation comment which can be viewed on the Council's website).</p>
4.5	Affordable Housing- no comment received
4.6	SUDS- no objection informatives only stating preference for use of soakaways for surface water drainage.
4.7	SC Highways- no objection subject to conditions relating to construction of parking and turning areas before the use commences and informatives
4.8	Public Comments
	<p>3 representations supporting have been received in summary:</p> <ul style="list-style-type: none"> • Nicely thought out development • To be built on existing foundations • Designed to fit in with surrounding area • Carbon neutral

	<ul style="list-style-type: none"> • Will not be visible or obtrusive to neighbours or visible from afar • Well thought out development • Will not be a blot on our beautiful landscape within AONB • Well designed eco-friendly property, discreetly located
	<p>A further neutral representation has been received but raising the following concern:</p> <p>This appears to be a well designed and appropriate development. However all the previous objections regarding position within the AONB (the site is visible from Luckley Hill and Long Mountain) would appear to apply to this application also. Furthermore all previous comments regarding the access and increased traffic to Pentirvin from Lordstone Lane would also be relevant to this application. I note that the proposed access track displays a prominent notice stating "Unsuitable for Road vehicles".</p>
5.0	THE MAIN ISSUES
	<p>Principle of development Siting, scale and design Trees Ecology Visual impact and landscaping</p>
6.0	OFFICER APPRAISAL
6.1	Principle of development
6.1.1	Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise.
6.1.2	The NPPF states that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
6.1.3	Paras 77-79 of the NPPF deal with rural housing. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
6.1.4	The NPPF requires Local Authorities to identify and annually review their housing land supply. The most recent assessment undertaken by Shropshire Council covers the period from 2019/20 to 2023/24. The assessment demonstrates that Shropshire Council currently has 6.42 years supply of deliverable housing land against the housing requirement within the adopted Core Strategy. (8 years supply of deliverable housing land against the housing need identified using Government's standard methodology).
6.1.5	The current adopted SAMDev Plan is considered up to date. The Council's Core Strategy (CS) was adopted in 2011 and guides development and growth during the period to 2026.

6.1.6	CS1 sets a target of delivering 27,500 dwellings over the plan period with 35% of these being within the rural area, provided through a sustainable “rural rebalance” approach. Open market residential development in rural areas will be predominantly in Community Hubs and Clusters. CS11 seeks to ensure that development creates mixed, balanced and inclusive communities.
6.1.7	Policy MD1 of the adopted SAMDev Plan deals with the scale and distribution of development in Shropshire. Bishop’s Castle is identified in MD1 as a Market Town and Key Centre, Within its area, several community cluster settlements are identified, where some open market residential development may be permitted as per Core Strategy Policy CS4 (Hubs and Clusters).
6.1.8	MD7a goes further and explains that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters.
6.1.9	Core Strategy CS5 (Countryside and Greenbelt) seeks to control new development protecting the countryside, unless, in the case of new residential development it improves the sustainability of rural communities.
6.1.10	CS4 states that in the rural area, communities will become more sustainable by focusing investment in the rural area into Community Hubs and Community Clusters, and not allowing development outside these settlements unless it meets policy CS5. CS4 also seeks to ensure that all development in Community Hubs and Community Clusters is of a scale and design that is sympathetic to the character of the settlement and its environs, and satisfies policy CS6
6.1.11	Pentirvin falls within a Community Cluster settlement as per SAMDev Plan Policy S2.2 (vii) which states: <i>development by infilling and conversions may be acceptable on suitable sites</i>
6.1.12	The housing guideline for the Cluster is around 15 additional dwellings over the period to 2026. According to the Council’s Five Year Housing Supply Statement (5YHSS) published 6 March 2020, the number of completions in the Cluster is seven, though sites with planning permission may be approximately 21. Data collected is to 31 March 2019 so two recent approvals in Pentirvin (19/05286/OUT and 20/01998/FUL) would have to be added, taking sites with planning permission to approximately 23.
6.1.13	Although the dwelling in this application is supported by the Parish Council, it has previously expressed significant concerns about over-delivery in the Cluster in relation to the housing guideline figure. Under MD3 para(3), sites outside of a settlement development boundary may be considered acceptable where a settlement housing guideline appears unlikely to be met. Plainly, having regard to data for the Cluster, there is no reason to expect the guideline figure not to be met. Accordingly, there is no reason for sites to be identified for development outside of the centre of Pentirvin, to the extent that such a characteristic exists (see 6.1.12 below). The provisions of MD3, and para(3) give no weight in favour of the application.

6.1.14	It is acknowledged that there are limited opportunities for true infill as required by Policy S2.2 (vii) in a small, loosely defined settlement such as Pentirvin. There is however a recognisable group of dwellings at its core, consisting of Chrisdene, 4 and 5 Pentirvin, and the two dwellings at Stone House. Each of these dwellings is considered to have a geographical and perhaps a functional relationship with the other. Planning applications reference 19/05286/OUT and 20/01998/FUL for single dwellings were recently approved within this group.
6.1.15	In contrast, the application site of the former 3 Pentirvin is @230m outside of the group described above and appears to have no geographical relationship with the more central group. There is a public footpath leaving the central group to the NE but is not considered to establish any sort of functional relationship to the extent it would be necessary in any event, in order to bring alignment with the infill requirement of S2.2 (vii).
6.1.16	The application site is accessed from Pentirvin Lane by an unadopted track which contributes to the impression of isolation and remoteness. The site overlooks 2 Pentirvin on a bank which drops into the valley beyond. There are no other neighbouring dwellings within 200m.
6.1.17	In terms of the scope in S2.2 (vii) for conversions it should be confirmed for the avoidance of doubt that the former dwelling associated with 3 Pentirvin is considered abandoned. This means that any residential use the site once enjoyed has been extinguished. That said, the NPPF at Chapter 11 seeks to make effective use of previously developed land. CS6 also seeks to make effective use of land. However in this case, the rural character of the site, now taken over by trees, is considered almost entirely restored. The remnants of a previous dwelling give very limited weight in the planning balance when considering the presumption against new residential development in the countryside.
6.1.18	The principle of new open market development in this location is considered contrary to the NPPF, CS1, CS4, CS5, MD1, MD3, MD7a and S2.2 (vii).
6.2	Siting, scale and design
6.2.1	CS6 and MD2 seek to secure sustainable design.
6.2.2	The proposed dwelling and integrated garage together has a floor area of @165sqm. The double garage has a roof apex slightly lower than the dwelling in order to give it more ancillary appearance, break up the roofline, and reduce the massing overall. Amended drawings have reduced the roof pitch to 37.5 degrees, lowering the ridge height on the main roof by some 370mm. The garage width has also been reduced allowing the ridge to be lowered and breaking up the ridge line.
6.2.3	The dwelling is to be constructed from facing brickwork/reclaimed stone under a tiled roof. Doors and glazing frames are to be UPVC. It is designed to draw on the local vernacular and for a linear single storey barn type building. It is intended to be built to passive house standards and operate on a "off grid" basis. Almost the entire SE Elevation would be covered in photovoltaic/solar panels giving considerable scope for energy conversion.

6.2.4	<p>Despite its size, the dwelling would not be sited in a conspicuous position and would for the most part be set against the backdrop of the steep bank behind. Even with most trees removed, only the highest part of roof slope would likely be visible from the rear. That said, the dwelling would require considerable and disruptive ground works to create a level base on which to accommodate the entire footprint, as illustrated on the block plan by the gabion retaining wall to the rear. In time, and with landscaping measures of sufficient quality, the dwelling would likely integrate into its setting successfully.</p>
6.2.5	<p>Acknowledging the Trees Officer has not objected to the removal of trees (see below) and thus would not amount to a reason for refusal in its own right, it is however considered the combination of groundworks and tree felling required adds some weight to the principle of opposing development in this location.</p>
6.3	<p>Trees</p>
6.3.1	<p>The NPPF, CS17 and MD12 in particular seek the avoidance of harm to Shropshire’s natural assets and their conservation, enhancement and restoration.</p>
6.3.2	<p>An arboricultural impact assessment has been submitted which proposes the removal of the following:</p> <ul style="list-style-type: none"> • Category B2 common sycamore (T1) • Category C2 common lilac • Category B2 group of 3 x damson • Category B2 6 x common ash (including T4,T8) <p>A further ash, elder and hawthorn (all Category B2) will require protection during construction but are not proposed for removal.</p>
6.3.3	<p>The Council's trees officer has considered the application and submitted arboricultural assessment, concluding there is no principle objection to the loss of the trees. However concerns have been raised about the absence of any visual impact assessment in terms of inward public views, particularly from the north. In that regard, glimpses of the dwelling would be possible from a footpath @300m to the north but Luckley Barn and most of the nearby footpath lie behind intervening trees and/or higher ground.</p>
6.4	<p>Ecology</p>
6.4.1	<p>The NPPF, CS17 and MD12 in particular seek the avoidance of harm to Shropshire’s natural assets and their conservation, enhancement and restoration. An ecology impact assessment has been submitted which concludes that with mitigation measures in place for bats and breeding birds there will be no significant residual adverse effect on protected species. With enhancements in place (installing bat and bird boxes and potentially planting boundary hedgerows) there would be an increase in the biodiversity value of the site/site surrounds.</p>
6.4.2	<p>The Council's ecologist has assessed the application and confirmed that conditions can be imposed according to standing advice.</p>

6.4.3	For the above reason, the development is considered to comply with the requirements of the NPPF, CS17 and MD12.
6.5	Visual impact and landscaping
6.5.1	The NPPF places great weight to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty. MD12 also references the special qualities of the Shropshire Hills AONB.
6.5.2	Although concerns have been raised in representations about visual impacts, the site has been visited by the case officer. Impacts to the fabric and character of the AONB are not a significant concern. The dwelling would visible from limited locations about 300m to the north, and possibly from areas around Luckley Hill. Otherwise, the dwelling is visually well screened for reasons of topography.
6.5.3	The Council's tree officer has not raised a specific objection to the removal of trees as per the submitted arboricultural assessment, subject to the imposition of suitable landscaping and re-planting conditions. Generally, there is no conflict in this regard with the requirements of CS17 and MD12.
7.0	CONCLUSION
7.1	The application is considered contrary to the Council's strategic settlement strategy, as set out in up to date policies CS1 and MD1 of the adopted Shropshire Core Strategy and Site Allocations and Management of Development (SAMDev) Plan respectively. The proposal would constitute an isolated home in the countryside which would not fall within any of the circumstances listed in paragraph 79 of the National Planning Policy Framework where such development may be acceptable on suitable sites. Despite Pentirvin being a designated Cluster settlement according to CS4 and SAMDev Plan Policy S2.2(vii), the development is neither considered infill within the settlement or a conversion. Instead, the development would be sited in an unsustainable countryside location, contrary to the requirements of CS5 and MD7a. There is no indication that housing guideline numbers of SAMDev Plan S2.2(vii) will not be met in the Plan period, therefore there is no reason to consider the development in terms of the provisions of MD3. There are no material considerations which would justify a departure from the Development Plan in this case.
8.0	Risk Assessment and Opportunities Appraisal
8.1	Risk Management
	<p>There are two principal risks associated with this recommendation as follows:</p> <p>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.</p> <p>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</p>

	<p>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.</p> <p>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.</p>
8.2	Human Rights
	<p>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.</p> <p>First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.</p> <p>This legislation has been taken into account in arriving at the above recommendation.</p>
8.3	Equalities
	<p>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.</p>
9.0	Financial Implications
	<p>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.</p>

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Shropshire Core Strategy and SAMDev Plan Policies:

CS1 - Strategic Approach

CS4 - Community Hubs and Community Clusters

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD7A - Managing Housing Development in the Countryside

MD12 - Natural Environment

Settlement: S2 - Bishops Castle

RELEVANT PLANNING HISTORY:

SS/1982/549/P/ Erection of a prefabricated garage for use as a builders workshop and store. PERCON 13th January 1983

SS/1980/22/P/ Use of land for the stationing of a caravan. PERCON 3rd April 1980

SS/1976/434/P/ Use of land for the stationing of a caravan. PERCON 28th October 1976

SS/1976/433/P/ Alterations and additions to existing dwellinghouse. PERCON 22nd October 1976

SS/1/99/10304/F Erection of two conservatories. PERCON 18th November 1999

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 Arboricultural Assessment Ecological Impact Assessment
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member Cllr Mrs Heather Kidd

Informatives

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

-