

Development Management Report

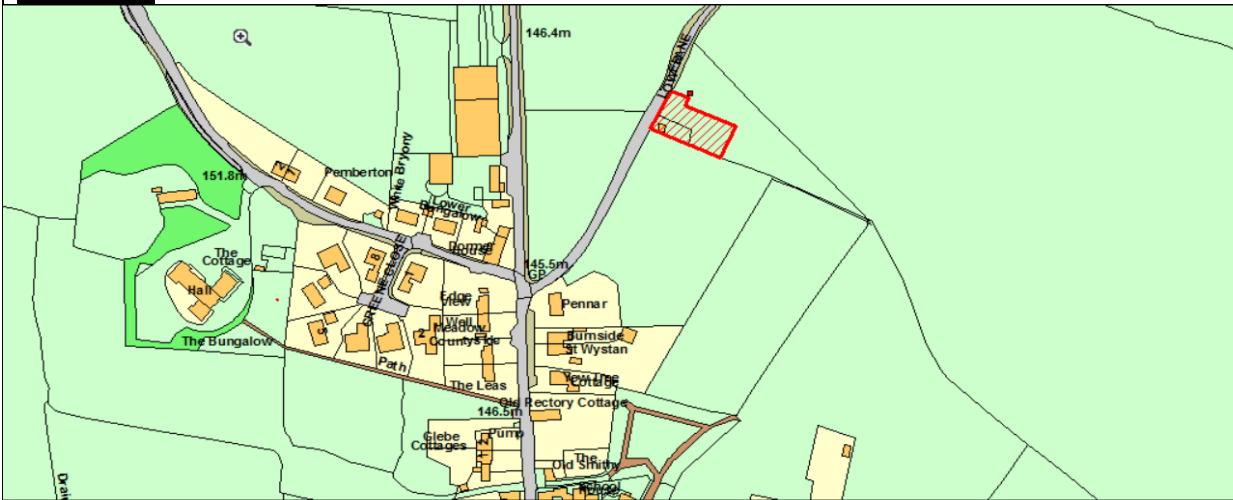
Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 20/03378/FUL	<u>Parish:</u>	Wistanstow
<u>Proposal:</u> Erection of an affordable dwelling with detached garage to include package treatment plant		
<u>Site Address:</u> Single Plot Exception Affordable Dwelling Lower Lane Wistanstow Shropshire		
<u>Applicant:</u> Mr & Mr Andrew & Kelly Jones		
<u>Case Officer:</u> Helen Tipton	<u>email :</u> planning.southern@shropshire.gov.uk	

Grid Ref: 343288 - 285882



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Recommendation:- Refuse.

Recommended Reason for refusal

1. The site is in open countryside and is not within or adjoining any recognisable named settlement. Consequently, and notwithstanding the fact that the applicants have been found to fulfil the local connections and housing need criteria for a designated affordable home, the development would detract from the essentially open character of the Shropshire Hills Area of Outstanding Natural Beauty and the development is contrary to the National Planning Policy Framework, Policies CS5; CS6; CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy, Policies MD2; MD3; MD7a and MD12 of the Shropshire Council Site Allocations and Management of Development Plan, and the Council's Supplementary Planning Document on the Type and Affordability of Housing.

REPORT

1.0 THE PROPOSAL

- 1.1 The planning application seeks permission to erect a Single Plot Exception (SPE) affordable dwelling with detached garage, to include the installation of a package treatment plant.
- 1.2 The proposed dwelling would be of a single-storey and constructed of brick, beneath a tiled roof for occupation by named individuals in local housing need. The associated double garage would be timber clad, below a tiled roof and vehicular access to the site would utilise an existing field entrance.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site comprises of the south western corner of a field of 'strip grazed' pasture, which is set to the east of Lower Lane, between Wistanstow village and Leamoor Common, near Craven Arms.

Situated within the Shropshire Hills Area of Outstanding Natural Beauty, (AONB), the site is located on a relatively level area of ground, with views stretching east, over farm land, to raised woodland, whilst other views are limited by the topography of the site and by boundary hedgerow.

The nearest built development comprises of a group of farm buildings, approximately 90 metres to the west and a residential dwelling, (forming part of a spur of housing to the south west of the site), which sits approximately 105 metres away.

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. This triggers automatic referral for a committee decision.

4.0 Community Representations

4.1 Consultee Comments

4.1.1 Shropshire Council Ecology - comment.

15 September 2020 - comment.

Any ponds (or waterbodies) within 250 metres of a minor planning application should be assessed in terms of their broad suitability to support great crested newts by carrying out a Habitat Suitability Index (HSI) assessment.

If any pond is calculated as being suitable then it may be necessary to carry out a presence/absence survey for great crested newts which is made up of 4 survey visits between mid-March and mid-June, with at least 2 visits between mid-April and mid-May. Three survey methods, (preferably torch survey, bottle trapping and egg searching) should be used on each survey visit. If great crested newts are discovered then it may be necessary to carry out a population size class estimate, which involves an additional 2 visits in the specified time period.

A recent alternative means of determining presence/absence is to take a water sample for eDNA testing between mid-April and mid-June. If great crested newt presence is confirmed then a population estimate by conventional survey (6 visits in the correct time period) will still be required. The ecologist should make recommendations as to whether a European Protected Species Licence with respect to great crested newts would be necessary and the need for a mitigation scheme and/or precautionary method statement.

The great crested newt survey should be carried out by an experienced, licensed ecologist in line with the Great Crested Newt Mitigation Guidelines by Natural England (2001) and should be submitted with any necessary mitigation scheme and method statement to the Local Planning Authority in support of the planning application.

1 October 2020 - comment.

Following receipt of an Ecological Impact Assessment, (conducted by Wildlife Surveyor, Susan Worsfold BSc ACIEEM and completed 20 September 2020), conditions and informative comments are recommended.

4.1.2 Shropshire Council Affordable Housing - support.

The Council's Affordable Housing team confirm that the applicants have demonstrated strong local connections to the Wistanstow Parish Council local administrative area.

After considering the couples housing needs and personal circumstances, it is confirmed that the requirements of the Supplementary Planning Document, (SPD) in relation to the build your own affordable home scheme have been satisfied.

The Local Housing Need elements of this application were established as follows from information presented to the Housing Enabling and Implementation Team in April 2020.

Mr and Mrs Jones are currently living in tied accommodation, which is deemed unsuitable for the couple and their children's long-term housing needs.

In a letter dated 22nd February 2020, Wistanstow Parish Council confirmed the couple had a local connection to Wistanstow for affordable housing purposes.

The couple have strong connections to the parish and receive support from Mrs Jones parents who live locally. Mrs Jones works at Wistanstow Primary School, where she is a keyholder and opens the school up in the morning. This is alongside her employment as a healthcare assistant for the NHS. Mr Jones works at a local poultry farm and has a pager alarm for when he is not at work, to respond quickly to ensure animal welfare.

From information provided, Mr and Mrs Jones are unable to purchase a suitable property in the immediate area due to availability and cost. This is due to a lack of lower cost, smaller affordable properties available locally. Therefore, Mr and Mrs Jones have demonstrated housing need, strong local connections and a need to live in the local area. Moreover, due to issues of affordability and availability they are unable to meet their own housing need within the parish without assistance from this policy.

4.1.3 Shropshire Council Drainage - comment.

A condition is recommended, which states that no development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

1. The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway. Should soakaways not be feasible, drainage calculations should limit the discharge rate from the site, equivalent to 5.0 l/s runoff rate, which should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any others in the vicinity.

2. If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, the applicant should submit for approval a drainage system to ensure that no surface water run-off from the new access runs onto the highway.

3. Full details, plan and sizing of the proposed package sewage treatment plant should be submitted for approval, including a completed Foul Drainage Assessment Form (FDA1 Form). British Water Flows and Loads: 4 should be used to determine the loading for the package sewage treatment plant and the sizing of the package sewage treatment plant should be designed to cater for the correct number of persons and in accordance with Building Regulations H2. These documents should also be used if other forms of treatment on site are proposed. Consent or an exemption certificate is required, as appropriate, from the Environment Agency for discharging treated foul effluent into the watercourse. However, if the ditch/ watercourse is occasionally dry, the treated foul effluent must discharge into a drainage field.

4.1.4 Shropshire Council Highways - comment.

The development is likely to be acceptable from a transport and highways perspective. The parking and turning is sufficient, the access apron is suitable and the gates appear to be set back at least 5 metres from the highway. In order for the proposed development to be appropriately assessed, from a highways and transport perspective, the following information is required to be submitted, by the applicant:
Visibility splays commensurate with the actual free-flow speed passing the site should be submitted, on a plan. The planting within the red line boundary to the north seems to be set back which is ideal; however there is no detail to the south, presumably outside the control of the applicant.

The gates look to be set back 5 metres, although this could be confirmed on the site plan.

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 Wistanstow Parish Council - support.

The Parish Council considered this affordable application under the document "Shropshire Local Development Framework, Type and Affordability of Housing, Supplementary Planning Development adopted 12th September 2012 under the section 'Affordable Housing for Local People - exception sites'.

The Parish Council agreed to support the application for the development of one affordable dwelling only on land at Lower Lane Wistanstow with this being an "exception site" and with the applicants meeting the Local Affordable Criteria.

4.2 Public Comments

4.2.1 This application was advertised via notice at the site.

4.2.2 Fourteen separate households provide support. Their comments are summarised as follows:

- Applicants are a supportive neighbour and valued member of the community. Their time is given freely to village events and activities.
- They are an asset to the community and are beneficial to the economy of the village.
- Mrs Jones works at the local school, Mr Jones works locally as a rural farm worker and the couple were married in the locality, with Mrs Jones family living locally. Their children also attend the local school. It would be detrimental for them to move out of the area where they have grown up.
- Necessity to live close to work.

- Young families such as these are being priced out of the market and the existing affordable housing is limited. More support for local families is required.
- Council restrictions prevent village vitality.
- The scheme would provide the family with a stable future in the village for the long term.

4.2.3 Four separate households object. Their comments are summarised below:

- Site is quite a distance out of the village.
- A better alternative could have been put forward, also lessening the cost of connecting services.
- Flooding -
Land is prone to flooding, where the land is the lowest point from the road. Water deposits debris over the field and if current field drains were restricted by footings, flooding could be made worse.
Site understood to be former sewage beds for former council houses. Clean water from nearby houses continues to filter to the site via original drains.
Application form is incorrect - a watercourse runs through the whole length of this field.
- The field is currently leased for grazing, although no notice has been served on the tenant.
- We believe the site was subject to the burial of cattle during the 1960's through Tuberculosis (TB).

5.0 **THE MAIN ISSUES**

Principle of development
Scale, layout, design and visual impact
Residential amenity
Ecology
Access and highway safety
Drainage
Other matters

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

- 6.1.1 A key objective of both national and local planning policy is to concentrate residential development in locations which promote economic, social and environmental sustainability. Specifically, the Council's Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 state that new open market housing will only be permitted on sites within market towns, other 'key centres' and certain

named villages ('Community Hubs and Clusters'), as identified in the Site Allocations and Management of Development (SAMDev) Plan. Isolated or sporadic development in open countryside, (i.e. outside the named settlements) is generally regarded as unacceptable unless there are exceptional circumstances.

- 6.1.2 One of the exceptions referred to under Core Strategy Policy CS5 and SAMDev Policy MD7a is where named individuals with strong local connections and who demonstrate they are in housing need wish to build their own 'affordable' home. Detailed guidance on this initiative, including a definition of the terms 'strong local connections' and 'housing need', can be found in the Supplementary Planning Document (SPD). This is made reference to by the Affordable Housing team who, in this case is satisfied that these two aspects of the policy are met. If planning permission were to be granted it would be subject to prior completion of a legal agreement to control both initial and future occupancy of the house, and to cap its resale value.
- 6.1.3 In terms of the issue of location, even affordable homes on rural exception sites are required, by the SPD, to be within or adjoining "recognisable named settlements". Isolated or sporadic development in open countryside, or which would otherwise adversely affect the landscape or an area's local distinctiveness or historic character would be unacceptable. The SPD explains that all settlements comprise of a group of houses occupied by households from different families, with the group becoming a settlement on account of the number houses and their proximity. Its limits are defined by where the relationship between the different properties peters out, and hence a site divorced slightly from a dispersed or loose-knit settlement might be considered to adjoin it, whereas one a similar distance from a tightly clustered or nucleated settlement would not.
- 6.1.4 Although the village of Wistanstow is clearly a settlement, this site cannot be regarded as adjoining the village, which is separated from the site both physically and visually, by open fields and mature planting. The roads leading through and from Wistanstow are also defined by a 30mph speed limit and whilst the speed limit area extends onto Lower Lane, it falls short of the site by approximately 65 metres. This in itself would not be sufficient to consider that the site is wholly outside of the settlement, however when coupled with other factors, such as the physical isolation from the village and from Leamoor Common, to the north; the largely undeveloped countryside surroundings and the solitary position of the site, the proposed dwelling would have little cohesion with the nearest settlement.
- 6.1.5 For these reasons officers consider that the site does not form part of a settlement, instead being in open countryside with only very sparse built development provided along this stretch of Lower Lane. It is felt that a new

dwelling in this deeply rural and particularly attractive landscape would inevitably erode the character of the area, which is within the Area of Outstanding Natural Beauty.

6.2 **Scale, layout, design and visual impact**

6.2.1 The site area accords with the 0.1 hectare limit imposed by the Affordable Housing SPD, whilst the dwelling's gross internal floor space would not exceed the 100m² threshold.

6.2.2 In terms of design, the appearance of the property would be satisfactory, given its low height, relatively simple form and choice of traditional materials. It would also be set back from the nearby road and much of the roadside and boundary hedge could be retained, which would limit the visual impact on the street scene. However, the site is particularly isolated from the nearest settlement and despite the house being sited discreetly, development in the chosen location would still erode the rural character of this part of the AONB and would be contrary to the aims and objectives of the AONB designation. In addition, the visual harm introduced would not be offset by the social benefits of the scheme, which are modest by comparison.

6.3 **Residential amenity**

6.3.1 There are no neighbouring dwellings in close proximity to the site and so there would be no resultant residential amenity concerns.

6.4 **Ecology**

6.4.1 Ditches were identified within an influencing distance of the site, although there are no rivers, ponds or woodland within 500 metres. The presence of Great Crested Newt (GCN) were considered unlikely, although reasonable avoidance measures should be taken to avoid an offence being committed. Also, no roosting or nesting birds were found, although it is recommended that the installation of roosting and nesting opportunities for bats and birds would enhance the site, whilst external lighting measures and compensatory planting is also provided to mitigate for commuting or foraging bats. Conditions in this regard are therefore recommended to be attached to any approval decision, along with informative comments relating to general wildlife protection during the construction phases of development.

6.5 **Access and highway safety**

6.5.1 The provided site plan clarifies the position of the proposed vehicular access, and it is considered that its layout, (including visibility splays), would be suitable in this case, although its final construction could be secured by

condition in an approval scenario. Whilst the narrowness of the adjacent rural road is acknowledged, it is an unclassified route which is lightly trafficked and the Highways Development Control team have raised no concerns about its capacity to accommodate the traffic likely to be generated by one additional household. Also, the adjacent section of road is quite straight, further minimising highway safety risk; there is an existing access to the field and the entrance gates would be set back from the roadside edge, allowing vehicles to park safely off the road when accessing and egressing the property. Additional visibility splays would also lead to the removal of additional hedgerow which would be considered unfavourable in landscaping terms.

6.6 **Drainage**

6.6.1 There is a known moderate to high risk of groundwater flooding in the area, although this does not refer to the area of the site proposed to be built on and the site is entirely outside of Flood Zones 2 and 3, as designated by the Environment Agency. The applicant's representative has suggested that flooding would be alleviated by suitable drainage measures across the site and the Council's Drainage team have confirmed this could be conditioned in the event that planning permission were to be approved.

6.7 **Other matters**

6.7.1 An objector refers to the land being currently leased to them as the tenant, although no notice has been served on them by the applicant's / their representative. This has now been brought to the attention of the applicant's agent, whereby no formal decision can be made by the Local Authority until the expiry of a 21 day statutory notice period from the date that the notice is served.

6.7.2 Additional public comments refer to the land as being a former burial site for Bovine TB positive cattle. As such, the Council's Animal Health and Public Protection Officer's were asked to comment and they have confirmed that whilst they hold no records of 1960's burial sites, from a human health perspective, any contamination risk would be low, although there may be a potential issue in terms of structural integrity, which would be addressed at the building regulations stage of development. Strict rules must be adhered to if a burial site is found and the Department for Environment, Food and Rural Affairs, (DEFRA) may need to be contacted if the scheme were to progress.

7.0 **CONCLUSION**

The applicants have been found to fulfil the local connections and housing need criteria for an affordable home. However, the scheme is contrary to the relevant planning policies because the site is in open countryside, with only sporadic housing existing outside of any cohesive settlement. Consequently,

the development would detract from the character and visual amenity of the Shropshire Hills AONB. For this reason, it is recommended that planning permission is refused, subject to the 21 day expiry of a statutory notice being served on the current tenant.

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
 CS7 - Communications and Transport
 CS11 - Type and Affordability of housing
 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

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

None.

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11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=QFDJHSTDGU200>

List of Background Papers
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member Cllr. Lee Chapman Cllr David Evans
Appendices APPENDIX 1

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.