

## Development Management Report

Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 20/04021/FUL	<b><u>Parish:</u></b>	Wistanstow
<b><u>Proposal:</u></b> Change of use of agricultural land to site for 5 camping pods, roadway with parking area and septic tank installation		
<b><u>Site Address:</u></b> Rosedene Horderley Craven Arms Shropshire SY7 8HR		
<b><u>Applicant:</u></b> Mr And Mrs S Ashley		
<b><u>Case Officer:</u></b> Helen Tipton	<b><u>email :</u></b> <a href="mailto:planning.southern@shropshire.gov.uk">planning.southern@shropshire.gov.uk</a>	

**Grid Ref:** 341671 - 288210



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**Recommendation:- Refuse.**

Recommended Reason for refusal

1. The development site would have limited economic benefits and would not relate to a recognisable named settlement, with visitors likely to rely on unsustainable means of car travel. The proposed development would not relate to an existing tourism enterprise and would not involve the diversification of an established rural business and so the development would be contrary to Core Strategy policies CS5 and CS16.
2. The development would be a conspicuous feature in this countryside location and would detrimentally affect the essentially open character of the Shropshire Hills Area of Outstanding Natural Beauty. The development is therefore contrary to the aims of the National Planning Policy Framework and to the requirements of Core Strategy policies CS5, CS6 and CS17.

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 The application seeks planning permission for the change of use of agricultural land to site five camping pods; a roadway with parking area and septic tank installation.
- 1.2 The pods would each have a footprint of 7 metres x 3.2 metres, with individual timber decking areas extending from the front and side / eastern elevations. The pods would have an arched roof, reaching to an external height of 3 metres and, internally, would comprise of a bedroom / lounge area with bathroom and shower.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 Rosedene Farm is accessed from the B4370 road, between the A489 Plowden junction at Horderley and the A49 junction at Marshbrook, due northeast.

The property is situated within the Shropshire Hills Area of Outstanding Natural Beauty, (AONB) and is positioned approximately 200 metres from the B4370, along a private access drive which extends northwest from the road to a public bridleway and track, near to Churchmoor Rough woodland. Meanwhile, a group of mature trees align to the north east of an adjacent field of pasture and the area of land proposed for development is bound by hedgerow and occasional mature trees.

The immediate setting predominantly provides pasture and grass crops. The site is relatively level, with a steady incline from the nearby farm complex, whilst the hills and surrounding topography undulate around it.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Parish Council have no objection to the proposed scheme and the Local Members have requested the application is considered by the Planning Regulatory Committee. Following discussion with the Chair and Vice Chair of the South Planning Committee, it was decided that the material planning considerations in this case require consideration by Committee.

**4.0 Community Representations**

**4.1 Consultee Comments**

**4.1.1 Shropshire Council Archaeology - no comment.**

We have no comments to make on this application with respect to archaeological matters.

**4.1.2 Ramblers Association - no comment.**

**4.1.3 Shropshire Hills AONB Partnership - 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.

**4.1.4 Shropshire Council Drainage - comment.**

An informative comment is provided which gives advice on the need for a sustainable surface water drainage system designed in accordance with the Council's 'Surface Water Management: Interim Guidance for Developers' document. The provisions of the Government's Planning Practice Guidance should also be followed, particularly Section 21 which aims to reduce the causes and impacts of flooding. Preference should be given to measures which allow rainwater to soak away naturally, with connection to existing drains or sewers being a last resort.

**4.1.5 Shropshire Council Highways - no objection.**

No concerns raised, provided the development is constructed in accordance with the submitted details.

The junction with the B4370 is suitable to serve the development. Sufficient parking and turning is proposed. The initial section of the track to Rosedene also serves a Public Right of Way / Bridleway (0565/UN5/2) but no concerns are raised in terms of the effects of the development on the bridleway.

4.1.6

Shropshire Council Rights of Way - no comment.

We have no comments to make on this application.

4.1.7

Shropshire Council Ecology - no objection.

Conditions and informative comments are recommended.

4.1.8

Shropshire Council Trees - comment.

9 November 2020 -

There are three mature oak trees along the north-west boundary of the site. These are good specimens and would be an essential part in screening any development at this site as seen from the higher ground of the Longmynd to the west. It is therefore imperative that, for this development to constitute sustainable development, these trees are protected from significant disruption accruing from the construction works and from the long-term arboricultural implications of the site layout.

The layout as shown on the Block Plan does not take into consideration the trees and introduces parking bays, with one of the lodges under the canopy of the trees and into the root protection area of all three trees. This is contrary to the recommendations for good practice as set out in BS5837:2012 trees in relation to design demolition and construction recommendations, and falls short of the expectations for sustainable site design and the natural environment as set out in national and local planning policies.

Having considered the extent and layout of the site, the Council's Tree Team recommend that the applicant be given the opportunity to amend their site layout so that it provides a more sustainable proposition. (An addendum is provided for the applicant's use, which provides an acceptable layout and indicative tree protection plan).

The following are the basic requirements for a Tree Protection Plan -

#### Tree Protection Zone (TPZ)

Trees require rooting space to satisfy their present and future needs for stability and for the assimilation of nutrients and water. Typically a relatively small tree with a girth at chest height of 60cm (19cm diameter) would require a volume of soil in the region of 30m<sup>3</sup> to ensure its good health. Bearing in mind

that in ideal conditions the majority of roots occur in the top 60 cm of soil (often less), the importance of not disturbing the root protection areas of retained trees cannot be overstated.  
Move first pod to the east.

Constraints within the Tree Protection Zone / Construction Exclusion Zone

The following constraints shall apply within the TPZs:

- No movement of vehicles on soft landscape surfaces within the TPZs without appropriate ground protection..
- No mechanical excavation without an agreed method statement and arboricultural monitoring.
- No open linear trenching by hand or machine without an agreed method statement and arboricultural monitoring.
- No changing of levels without the written agreement of the project manager or project arboriculturist.
- No hard surfaces to be laid.
- No storage of vehicles, plant machinery, building materials, rubble/spoil or surface scrapings.
- No storage, handling, or tipping of chemicals or noxious substances like wash from cement mixers etc.
- No fires.

Further to the above, the following constraints apply in the areas adjacent to TPZs

- No fires to be lit within 20m of any retained trees foliage drip line (outer edge of the crown).
- Storage or mixing of chemicals, cement, fuels, or other materials likely to leach substances toxic to tree roots to be kept at least 10m outside TPZs.
- With any identified chemical or noxious spillages to be contained immediately and removed at the first opportunity.

Extent and duration of the Tree Protection Plan (TPP).

The TPP shall be fully implemented to the written satisfaction of the Local Planning Authority, before any development-related equipment, materials or machinery are brought onto the site. Thereafter the approved tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development, until all equipment, machinery and surplus materials have been removed from the site.

Tree protection fence using chestnut paling or plastic mesh barrier (TPF)

The TPZ is a construction exclusion zone and will be clearly identified by a robust fence of either chestnut paling or plastic mesh barrier fence mounted on metal fencing pins or regular fence posts at an interval not exceeding 3m, and running along the perimeter of the construction exclusion zone. The tree

protection fence and zone shall be retained on site for the duration of the construction works.

Ground Protection Within the RPA of Retained Trees  
(Provisional Method Statement)

Temporary ground protection will be capable of supporting any traffic entering or using the site without being distorted or causing the compaction of underlying soil.

Pedestrian access - Where the tree protection plan shows that access to the development will encroach within the Root Protection Area (RPA) of retained trees for pedestrian traffic the following measures will be taken to protect the RPAs of retained trees:

Pedestrian operated plant machinery - For pedestrian operated plant up to a gross weight of 2t, proprietary interlinked ground protection boards placed on top of a compression resistant layer (e.g. 150mm depth of woodchip), laid onto a geotextile membrane will be employed.

Wheeled / tracked traffic exceeding 2t – For wheeled or tracked construction traffic exceeding 2t gross weight, an alternative system (e.g.) proprietary systems or precast reinforced concrete slabs, overlapping steel plates etc.) to an engineering specification designed in conjunction with arboricultural advice and will be sufficient to accommodate the likely loading to which it may be subjected.

Wheeled / tracked traffic exceeding 2t – Where there is an intention to introduce heavy wheeled or tracked traffic within the RPAs of retained trees at this site, it will be necessary to obtain the written agreement of the local planning authority and the following measures will be applied. For wheeled or tracked construction traffic exceeding 2t gross weight, an alternative system (e.g.) proprietary systems or precast reinforced concrete slabs, overlapping steel plates etc.) to an engineering specification designed in conjunction with arboricultural advice and will be sufficient to accommodate the likely loading to which it may be subjected.

If the applicant is not able or is unwilling to consider modifying the layout, the Tree Team recommend that this application be refused planning consent. On the basis, the Tree Team are not able to support this application as it stands and we are not recommending conditions at this time but would be happy to do so if the Case Officer considers it would be expedient to proceed this application towards consent without modification of the layout.

Note - 4 December 2020 -

- 4.1.9 Following comments and a suggested layout provided by the Council's Tree Team, an amended Block Plan has been submitted, which generally replicates the recommended layout provided by the Tree Officer.

Wistanstow Parish Council - comment.

- 4.2 The Parish Council has no objection to the application subject to the layout of the site not being detrimental to the views from the Longmynd.

4.2.1

Public Comments

None received.

5.0 **THE MAIN ISSUES**

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

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

- 6.1.1 Part 6 of the National Planning Policy Framework (NPPF) seeks to build a strong, competitive economy and Paragraph 83 of it gives particular emphasis on the rural economy, which includes sustainable rural tourism and leisure developments which respect the character of the countryside.

- 6.1.2 Policy CS5 and CS13 of the Council's Core Strategy advise development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to small scale development diversifying the rural economy; including farm diversification and the retention and appropriate expansion of an existing established business, including forestry, green tourism and leisure. In rural areas, recognition is given to the continued importance of farming for food production, supporting rural enterprise and agricultural and farm diversification of the economy. In the case of diversification schemes, applicants would be required to demonstrate the need and benefit for the development proposed and development would be expected to take place primarily in recognisable named settlements or be linked to other existing development and business activity.

- 6.1.3 Following a request from the Local Planning Authority to provide a supporting business plan, the applicant's representative has provided a brief statement, which advises that the land holding has previously been reduced by 40 acres, to 54 acres, after the farm encountered some personal and

financial difficulties. The remaining land is now let out to neighbouring farmers, whilst the buildings and a small amount of land have been retained for livery purposes. No detail is given in regard to the livery use. This information would be insufficient to demonstrate that the development could be considered as part of a diversification scheme or linked to an existing business, other than by proximity to the existing outbuildings and ownership of the land.

6.1.4 Core Strategy Policy CS16 requires visitor accommodation to be in accessible locations served by a range of services and facilities. In rural areas proposals must be of an appropriate scale and character for their surroundings; be close to or within settlements, or an established and viable tourism enterprise where accommodation is required. Proposals which would result in isolated, sporadic, out of scale, or which may either individually or cumulatively erode the character of the countryside, would not be acceptable, in accordance with Policy CS5. The site is not an established and viable tourism enterprise and the proposal would not fall within the definition of green (low impact) tourism, as referred to under CS13.

6.1.5 The proposed development site is in a remote and isolated location, clearly read as being open countryside, with no nearby amenities or facilities within easy walking distance. The roads between the proposed site and the nearest settlement are hazardous for pedestrians, being unlit and having no pavement. This would put a strong reliance on the private vehicle to utilise local amenities. As such, and whilst the proposed accommodation and the location would likely be popular to visitors, there would only be negligible benefits to the local visitor economy. The principle of the proposal is therefore considered unsustainable and contrary to both local and national policy and guidance.

## 6.2 **Siting, design and visual impact**

6.2.1 Core Strategy Policy CS6 seeks to secure sustainable design and MD12 of the Site Allocations and Management of Development (SAMDev) Plan supports development which contributes positively to the special characteristics and local distinctiveness of an area, with the avoidance of harm to Shropshire's natural assets, their conservation, enhancement and restoration.

6.2.2 MD11 of the SAMDev Plan states that holiday let development that does not conform to the legal definition of a caravan, and is not related to the conversion of existing appropriate rural buildings will be resisted in the countryside following the approach to open market residential development in the countryside. This does offer some scope for caravan-act compliant holiday accommodation and the proposed pods would fall within this definition in terms of scale and dimensions, although the



amount of infrastructure associated with the development is likely to amount to a permanent installation, where the pods would be immovable.

- 6.2.3 With regard to the amended layout provided, this is a more favourable proposition, given that it would have a limited impact on the nearby trees, which are considered essential in reducing the visual impact of the scheme. However, although the site is relatively well concealed from much wider viewpoints and the pods would be generally rustic in appearance, the contrived, linear pattern of development that would be introduced would be an unnatural feature in the countryside setting and be an intrusive addition to the AONB. This, together with the domestication of the land, by the creation of decking and parking areas, would result in an adverse impact upon the local distinctiveness and landscape of the area.

### 6.3 Residential amenity

- 6.3.1 Given the isolated location and separation distances between the proposed site and the nearest neighbouring dwellings, there would be no adverse impact on residential amenity.

### 6.4 Highway safety

- 6.4.1 The Council's Highways team raise no objection to the scheme and since the approach route from the nearest road is already capable of providing safe access to the site, there are no concerns in this regard.

### 6.5 Ecology

- 6.5.1 Paragraphs 174 and 175 of the NPPF emphasise that the Local Planning Authority should ensure developments protect and enhance biodiversity by promoting the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity. The Council's Ecologist is satisfied there would be no detrimental impact on biodiversity, although conditions and informative comments are recommended in the event that the application is approved.

### 6.6 Drainage

- 6.6.1 The Council's Drainage team have no overriding concerns and offer informative comments.

## 7.0 CONCLUSION

- 7.1 The proposed scheme would not involve the diversification of an established rural business or relate to an existing tourism enterprise and would be contrary to Core Strategy Policies CS5 and CS16. The layout and domestication of the

proposed development would also be a conspicuous feature in this countryside location and consequently, the development would detract from the character and visual amenity of the AONB. Whilst the scheme would likely be a popular tourist destination, the limited economic benefits would be outweighed by the harm introduced and would be contrary to the aims of policy, which seeks to locate this type of development close to settlements or to existing facilities.

## 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:  
CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles  
CS13 - Economic Development, Enterprise and Employment  
CS16 - Tourism, Culture and Leisure  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management  
MD2 - Sustainable Design  
MD11 - Tourism Facilities and Visitor Accommodation  
MD12 - Natural Environment

### RELEVANT PLANNING HISTORY:

12/04768/FUL Alterations and extension to detached garage to provide ancillary accommodation to existing dwelling GRANT 8th January 2013  
13/01386/DIS Discharge Condition 3 of planning permission No. 12/04768/FUL (Alterations and extension to detached garage to provide ancillary accommodation to existing dwelling) DISAPP 22nd April 2013

Contact: Tim Rogers (01743) 258773

17/04748/FUL Change of use of land to equestrian and construction of manege GRANT  
12th January 2018

11. Additional Information

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

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

**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.