

SAVE SNATCHFIELD GROUP and ALL STRETTON VILLAGE SOCIETY

Mr Andrew Begley
Chief Executive Officer
Shropshire Council

28th February 2021

Planning application 18/01258/OUT Springbank Farm

We are writing to challenge the validity of the decision made by the Southern Planning Committee at its meeting on 16th February 2021.

However, in the first instance, we would like to thank the officers involved in the preparation and presentation of this work for the robust case which they constructed against the proposal, and with which, in the most part, we concur.

The key conclusions from the officers' report are that planning permission should not be granted because the proposed site is located in an area designated as countryside by the current SamDev and is outside the town's development boundary. Further, the site is located within an AONB but the proposals make no reference to the requirements of NPPF172 nor of the enhanced requirements laid down by the Waverley case (Secretary of State for Housing, Communities and Local Government and others v Waverley BC [2021] EWCA Civ 74) about which the ASVS wrote to you recently. In addition, by being outside the town's development boundary the additional houses will not count towards the town's windfall targets, and it is unclear how what were referred to by a Committee Member as "five £750,000 houses" will help satisfy any need for affordable housing.

All of the co-signatories have considered the circumstances of the case, and of the planning meeting, and feel that the Southern Planning Committee erred when reaching its decision to approve planning permission. This letter sets out the reasons for reaching this decision and in particular will argue that:

1. The proposal had been materially changed from the outline case filed in 2018, and as such these new proposals should have been consulted upon, and that to have deprived those entitled to be consulted is manifestly unfair and a proper subject for Judicial Review.
2. The matters relied upon by Members and frequently cited during their discussion, most particularly the housing need numbers within Church Stretton and the status of the land, were incorrect and that if they had been correctly presented it is likely that Members would have voted against granting permission. That the rationale of

Members to place reliance on policy MD3 was flawed, and had been explicitly rejected by officers in their written report.

3. In seeking to establish the views of the local community, the comments of Councillors representing Church Stretton were accorded great weight and several Members made reference to the views as they were reported. The views of residents in Church Stretton and All Stretton – the communities between which the proposed Spring Bank Farm development is located – are very well known and have been recorded by surveys for the Community Led Plan and by the ASVS. These views are categorically that the green space between the communities should be retained. In reporting the views of Church Stretton to be in conflict with these recent published surveys it is unclear from which source or on which authority these assertions are made. Certainly, there are no minutes or other record which show a discussion by the Council.
4. The recusal by the Chair from the item concerning Springbank Farm as a result of his pecuniary interest in the site was welcomed and respected. In normal times any such Member would physically leave the meeting and be unable to monitor or take part. However, the operation of Covid rules appears to have inadvertently compromised this impartiality, and in particular the recused Member, having explained their pecuniary interest, then read a personal statement. This Member was then asked to turn off their microphone, but was still able to hear the debate. That not only is justice done but seen to be done is critically important and that principle appears to be compromised in this instance.
5. The Shropshire Council Solicitor read a statement from Church Stretton Council. This statement referred to 'attachments' which the solicitor confirmed had previously been circulated to Committee Members. Having listened closely to the recording of the Planning Committee, these 'attachments' would seem to be key documents. However, none were available on the Planning Portal. As such, neither public scrutiny nor challenge was possible.

In view of these reasons, it is argued that the decision of the Southern Planning Committee should not be approved, the latest proposals should be openly consulted upon, and the decision should then be returned to the Southern Planning Committee to be considered afresh.

The letter will now consider each of the grounds for objection in detail.

The requirement for the proposals to be re-consulted

This application was originally made in 2018 when the planning landscape looked very different. It was also a materially different proposal, showing six properties, and was the subject of considerable local opposition.

At the time the early drafts of the Shropshire Development Plan anticipated major development in the town, and in particular the idea of building 50 houses on the school field (CST018), was considered likely to proceed.

For whatever reason – possibly the belief that should the CST018 proceed to full approval it would make the Spring Bank Farm proposal more likely – the applicant agreed with Shropshire Council to stay the application. It has remained dormant for three years.

In late 2020 Shropshire Council reissued the Local Development Plan and removed major development sites from within the AONB, reflecting the requirements of NPPF172. This had followed a significant local campaign resulting in 169 submissions. In February 2021 the Court of Appeal in the Waverley case further strengthened the protection of the AONB and requires all developments in the AONB of this type to meet the exceptional circumstances tests which Shropshire Council have recently acknowledged are not met. It would appear that this proposal, seeing the direction of travel indicated by the latest draft of the Local Development Plan has moved quickly to seek determination before the LDP is adopted. Certainly, without the Playing Field site, this proposal makes little sense from a planning perspective. However, the Court of Appeal judgement was already in force when the Committee met on the 16th February but was ignored.

Thus, given the very large changes in the planning landscape, the significant delay, the need to disclose to consultation that the proposals now conflicted with planning policy (both because of the Waverley case and because the proposed site was outside the development boundary) and because of the changes to the proposal itself, the proposal should have been consulted on publicly before going to Committee for determination.

It is clear that the High Court believes that the rights of third parties for consultation should not be denied. “In considering whether it is unfair not to re-consult, in my judgement it is necessary to consider whether not doing so deprives those who are entitled to be consulted on the application of the opportunity to make any representations that, given the nature and extent of the changes proposed, they may have wanted to make on the application as amended. I do not accept that the test for whether re-consultation is required if an amendment is proposed to an application for planning permission is whether it involves a ‘fundamental change’ and involves a ‘substantial difference’ to the application or whether it results in a development that is in substance different for that applied for...As I have explained...a person may still have representations that he or she may want to make about the changes, given their nature and extent, if given the opportunity. In my judgement it is preferable to ask what fairness requires in the circumstances” *R (Holborn Studios Ltd) v Hackney LBC* [2017] EWHC 2823 at [79]-[80].

It is without question that local residents would have certainly wished to comment and to point out that the proposals were in breach of both Shropshire Council's and national policy if only they had known that the application had suddenly become live again after so many years.

Facts presented to the Committee about housing need, windfall properties and the status of the site, upon which Members relied, were not correct

During the meeting much was made of the need for more housing in Church Stretton, citing the old SamDEV target of 370 homes needed by 2026. It was also quoted that the total completions and permissions achieved thus far was 275, leaving a further 95 to be achieved through windfall sites, or approximately 19 a year. It was further suggested that this build rate would not be achieved, despite the planning report suggesting that this target may be achieved.

In fact, these figures are wrong. When CST018 was removed it was stated that the Council were not looking for an alternative site, and that the target would be adjusted to reflect this reduction of 50.

Thus, deducting 275 from 320 leaves an outstanding target of 45, which gives a run rate of 9 a year. Clearly, if the planning team think a build rate of 19, whilst challenging, was achievable, a rate of 9 a year is well within the likely windfall build rate. Further, because the Springbank site is outside of the development boundary, these five houses would not count towards Church Stretton's targets anyway and would be simply be swept up by Shropshire Council as 'countryside'.

Of course, the quoted figure of 275 completions and permissions was as of 31st March 2019, now 23 months out of date. Since 1st April 2019 we are aware of between 15 and 20 completions and permissions within the Church Stretton development boundary (Easthope Road site, Brambles site, Hill Cottage site, Lutwyche Road site etc.) As such, the quoted figure of 275 is doubly misleading.

Having dismissed the relevance of policy MD3 in the officers' report and in his oral submission to the committee, applying the correct numbers would have made Members use of MD3 as the final justification even more bizarre. Yet, the failure to meet targets was cited by Members as important justification to approve the proposals. If this justification was removed, it is likely the pressure to force through the proposals would have failed.

We would also question why the windfall numbers (121) currently being consulted on at Regulation 19 were allowed to be introduced to the debate. These theoretical numbers clearly influenced the Planning Committee decision. It would seem strange that the Council Officers present did not challenge or exclude their use.

There was also frequent references to the proposed site as being 'brownfield', yet in truth the site is detailed by the Church Stretton Place Plan Area as 'countryside'. The Consultant Planner correctly points out in para 6.1.16 of his report that: "there are existing sheds on the

site on the area of the proposed Plots 1,2 and 3 that [the] application describes as farm buildings". In the discussion of Springbank Farm these few farm buildings lead the committee to erroneously describe the site as "brownfield". This site is not "brownfield". The NPPF clearly states that "previously developed land" (ie brownfield) "**excludes**: land that is or was last occupied by agricultural or forestry buildings".

Views of the local community are at variance with those reported to Members

In seeking to establish the views of the local community, the comments of Councillors representing Church Stretton were accorded great weight and several Members made reference to the views as they were reported. The views of residents in Church Stretton and All Stretton – the communities between which the proposed Spring Bank Farm development is located – are very well known and have been recorded by surveys for the Community Led Plan and by the ASVS.

These views are categorically that the green space between the communities must not be compromised. Any suggestion that the northern boundary be extended would be very unpopular, and as one Member stated at the meeting "and anyway, the boundary is where it is". In reporting the views of Church Stretton to be in conflict with these recent published surveys it is unclear from which source or on which authority these assertions are made. Certainly, there are no minutes or other record which show a discussion by the Council which can be located.

Comments at the meeting also suggested the possible wish to use any development at Springbank Farm as a 'Trojan Horse' including to facilitate later in fill proposals between Spring Bank and the current development boundary. Such actions would also be unpopular, untested, arbitrary and not plan-led. Shropshire Council has policies, especially regarding Rural Exception Sites, that identify sites when need has been identified. It is very important that Town and Parish councils follow that policy context and do not create dangerous precedents.

Process for calling, and conduct at, Southern Planning meeting held on 16th July 2021

Notwithstanding that the normal proposals for advertising planning proposals and meetings detailed in the Development Management Order 2015 are temporarily superseded by the Covid regulations, nothing in the temporary regulations prevents traditional methods of advertising. Further, the regulations require other methods to be used during the pandemic, like council mailing lists, social media, the Council's websites, online newspapers, and local town councils to advertise proceedings.

Given that representations on behalf of Church Stretton Town Council, Cllr Evans and Cllr Chapman were received by the meeting, it would be helpful if you could share what distribution and advertising methods were used, and how widely they were deployed?

Notwithstanding that the proposals for Springbank Farm were not fully advertised, the proceedings at the meeting were also slightly unusual.

The recusal by the Chair from the item concerning Springbank Farm as a result of his pecuniary interest in the site was welcomed and respected. In normal times any such Member would physically leave the meeting and be unable to monitor or take part. However, the operation of Covid rules appears to have inadvertently compromised this impartiality, and in particular the recused Member, having explained their pecuniary interest then read a personal statement. This Member was then asked to turn off their microphone, but was still able to hear the debate. That not only is justice done but seen to be done is critically important and that principle appears to be compromised in this instance. It would be helpful if you could confirm that all necessary procedural steps were taken during the meeting.

The Planning Committee were clearly in receipt, prior to the Meeting, of key information which was not available to the public for scrutiny or challenge. We believe these may have been the 'attachments' referred to in the Church Stretton Town Council statement which was read to the Committee. Reviewing the recorded discussion at the Planning Committee it seems that Members may have been influenced by details of a potential 'masterplan' for land between Church Stretton and All Stretton. As such, we believe that it is possible the decision to grant planning permission may not have been based solely on the merits of the Springbank Farm development.

Summary and Conclusion

The proposal to seek outline planning permission for housing at Spring Bank Farm has been stayed for three years, and its sudden resurrection and listing at the recent Southern Planning Committee was as unwelcome as it was unexpected.

The application is not only in contravention of many Shropshire Council's existing SamDEV and proposed Local Development Plan, but also conflicts with the NPPF and recent court decisions.

The Council Planning team knew this, and presented the matter in an exemplary way in order to get the Committee to consider the proposal in the correct local and national policy context – and therefore refused.

The planning team also fought valiantly at the meeting itself. But in the face of data on housing numbers which incorrectly suggested a housing shortage, representations from local councillors which contradict their own Community Led Plan data, and with no representations from the public because they had been blindsided by the failure to re-consult, the whole process was, in the words of the High Court, 'unfair'.

On behalf of the many organisations and residents who have worked to correct the mistakes upon which Members based their decision, we ask that the decision by the Southern Planning Committee not be confirmed, and that a period of open consultation be held to inform a

subsequent meeting when, in receipt of sound data and with sound judgement the Spring Bank Farm development proposals may be fully and fairly assessed.

If there are any ways by which we can help, please do not hesitate to contact us.

Yours sincerely,

JIM BUNCE

On behalf of Save Snatchfield Group and the All Stretton Village Society

jim.bunce79@hotmail.co.uk

cc. Ian Kilby