



Committee and Date
Northern Planning Committee
11th October 2022

Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 22/03031/FUL	Parish:	Knockin
Proposal: Application under Section 73a of the Town and Country Planning Act for the retrospective erection of a tools/storage building		
Site Address: Paddock Lodge Kinnerley Road Kinnerley Oswestry Shropshire		
Applicant: Mr M Sheppard		
Case Officer: Mark Perry	email	: mark.perry@shropshire.gov.uk

Grid Ref: 333434 - 321458



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This householder application seeks retrospective planning permission for the retention of a steel framed storage building which is used by the applicant as incidental domestic storage/ garaging in association with Paddock Lodge.
- 1.2 The subject building has formed part of a previous planning application where the applicant sought retrospective consent for the use of two) as holiday lets and the erection of four additional holiday units and one ancillary building (application no. 20/04370/FUL). The ancillary building referred to is the building that is now the subject to this current application.
- 1.3 The above planning application was then refused in May 2021 for the following reason:

The applicant has not adequately demonstrated that the site and the behaviour of holiday makers can be appropriately managed in such a way that the peaceful and tranquil location of the site can be protected and that residential amenity for the neighbouring residential occupiers is safeguarded. As such the proposal fails to comply with CS6, CS16 of the Core Strategy and MD2, MD11 of SamDev.

- 1.4 The applicant then appealed the Council's decision and the Planning Inspector dismissed the appeal.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site falls within the large residential curtilage of Paddock Lodge. The building itself sits to the west of the large sprawling house which has been the subject of a number of extensions over the years. In between the storage building and the highway sits various outbuildings and the applicant's tennis court.
- 2.2 The residential curtilage of Paddock Lodge sits adjacent to the applicant's holiday lodge business which comprises four lodges which were granted permission on appeal in 2013 and have now been operational for a number of years. There are also three other lodges which are unauthorised and were the subject to the planning application referred to in para 1.2 above. The applicant has also been issued with an enforcement notice to prevent the unauthorised lodges being used as tourist accommodation.
- 2.3 The site is located in an area that is defined as open countryside. The nearest neighbouring dwellings are the Heathwaen and Ivy Cottage, both of which are located immediately adjacent to the south western boundary of the application site. Both are traditional rural cottages and Ivy Cottage is a Grade II listed

building. Both of these properties sit on land that is substantially lower than the application site.

- 2.4 A public footpath runs parallel to, but outside, of the south western boundary of the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Local member requested, within 21 days that it should be referred to committee for its determination.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 Parish Council- The Parish Council does not object to the retention of the store, subject to the condition that it is used as such, and is not used as a workshop or other use which might add to the disturbance in the locality.

- 4.1.2 Conservation- no comment to make

- 4.1.3 Public Protection- no objection, no complaints about the garage building have been received.

4.2 Public Comments

Objections received from 2 contributors, commenting on the following:

4.2.1

Large industrial type building
Built without planning permission
Refused on appeal
Can be seen from public footpath
Loss of trees
Flooding

5.0 THE MAIN ISSUES

- Background
- Policy & Principle of Development
- Layout, Design & Scale and Impact on Landscape Character
- Impact on Residential Amenity

6.0 OFFICER APPRAISAL

6.2 Policy & Principle of Development

- 6.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the adopted development plan 'unless material considerations indicate otherwise'. Paragraph 11 of the National Planning Policy Framework builds on this wording

by encouraging planning to look favourably upon development, unless the harm that would arise from any approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

- 6.2.2 Shropshire Core Strategy Policy CS6 seeks to ensure that all development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance, landscape character assessments and ecological strategies where appropriate.

SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The application site is within a countryside location, therefore Shropshire Core Strategy Policy CS5: Countryside and Greenbelt is also of relevance.

- 6.2.3 Additions to existing dwellings are considered acceptable in principle under the 'Type and Affordability of Housing' Supplementary Planning Document (SPD), which supports the Council's Core Strategy Policy CS11. Although this does not refer, specifically, to detached outbuildings, these pose no fundamental policy conflict, provided they are solely for ancillary domestic use.

6.3 **Layout, Design & Scale and Impact on Landscape Character**

- 6.3.1 The subject building is of a steel frame structure and clad in dark juniper green profile steel sheets. The footprint of the building measures 12m by 8m with a height of 4m to eaves and 5.1m to its ridge when measured at the front of the building. The building has a roller shutter door to the front and a smaller pedestrian access to the side.
- 6.3.2 The land upon which the building sits does fall away to the rear as a consequence the rear of the building is set upon 2 rows of stone gabions meaning that the building's concrete floor and the bottom of the steel cladding is approximately 1.5m above the natural ground level. The effect of this is that the massing of the building is significantly greater when viewed from the rear. The rear of the building is visible from the public footpath which passes approximately 23m to the south along the rear boundary of Paddock Lodge.
- 6.3.3 The subject building is has footprint and height which is larger than a more typical domestic garage. Officers note that the applicant uses the building for storing a wide range of general tools and equipment which would be expected to be used for general works and maintenance. Paddock Lodge has an extensive residential curtilage which covers some 0.6 hectares (1.4 acres) and therefore a proportional amount of incidental storage space would be expected for tools and other equipment.

- 6.3.3 It is accepted by Officers that the use of steel profile sheeting as an external material is more commonly used on agricultural or industrial buildings than it is within domestic curtilages. The use of juniper green does give the building a more recessive appearance and does help it avoid being excessively obtrusive when viewed within the site. The site benefits from a good level of tree cover to all boundaries. Consequently, any views of the building from the road are very heavily filtered, the building is also set back into the site by some 60m.
- 6.3.4 Whilst the subject building is larger than a typical domestic garage it must also be recognised that the building is proposed for use in association with a large dwelling that is set within extensive grounds. It must also be recognised that the applicant benefits from substantial permitted development rights which would allow the construction of a large outbuilding, albeit lower in height than the one proposed here, without the need to obtain planning permission.
- 6.5 **Impact on Residential Amenity**
- 6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. The nearest dwelling is to the north west and around 45m away from the subject building.
- 6.5.2 As detailed earlier in this report there has been a previous refusal of planning permission and the subsequent appeal which was dismissed. The refusal was for an application that included not just the subject building but also the addition of further holiday lodges on the adjacent site.
- 6.5.3 In the Planning Inspectors decision she sets out her reasons for dismissing the appeal and this is clearly on the basis of the additional holiday lodges resulting in the generation of additional noise on the site which had the potential to impact upon the amenities or the neighbouring occupiers. Whilst the outbuilding was included within the description of development the Planning Inspector did not make any reference to it in her decision and neither was the outbuilding a reason for the Council to refuse planning permission initially.
- 6.5.4 It is considered by Officers that the storage building which is to be used for purposes incidental to the residential use of Paddock Lodge would not give rise to unacceptable levels of noise or disturbance whereby it would impact upon the amenities of neighbours.
- 6.5.5 Officers note that the applicant and the use of his land has a history of generating complaints from the local community. This has been because of the levels of noise and disturbance that have on occasions emanated from his holiday lodges (noisy parties and social gatherings), in part this has been due to the lack of on site management and supervision and ultimately resulted in the applicant's plans to expand the holiday business being dismissed on appeal. The Council's Public Protection team have also taken the necessary steps under the powers available to them to protect the neighbours from this nuisance.

- 6.5.6 The outbuilding the subject of this current application is proposed by the same applicant as the holiday lodges were, however, this current application must be considered on its individual merits. The Council's Public Protection team have historically received complaints about the holiday lodges but they have not received complaints regarding the use of the outbuilding being considered here.
- 6.5.7 To ensure that the use of the outbuilding remains incidental to the use of the dwelling and not for any business or commercial uses and planning condition would be imposed to this effect.
- 6.5.8 It is considered by Officers that the outbuilding would not generate noise or nuisance that is likely to be significantly greater than a normal domestic premise. Taking into account the separation distance between the building and neighbouring dwelling it would not be likely to have a detrimental impact on residential amenities subject to it being used only for purposes incidental to the dwelling.
- 6.7 **Drainage and Flooding**
- 6.7.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity.
- 6.7.2 No details have been provided within the submission to detail how the surface water would be disposed of. It is considered that this can be adequately secured by a condition requiring the applicant to provide details of the surface water drainage system.
- 7.0 **CONCLUSION**
- 7.1 The subject building is larger than a typical domestic garage however it is located within the extensive curtilage of Paddock Lodge and in a position where it is closely associated with existing buildings. The building is also well screened by existing trees. The rear of the outbuilding is visible from the passing footpath but overall it is considered by Officer that despite its elevation above the natural ground level it does not result in visual harm to the character and appearance of the site or the wider area.
- 7.2 It is recognised that there have been ongoing problems at the site with regards to noise and nuisance emanating from the holiday lodges which has previously given rise to objections and complaints from neighbouring occupiers and the Parish Council. This application is solely for a building that would be used for incidental storage in association with Paddock Lodge. It is considered that when assessed on its individual merits the outbuilding would not impact upon the amenities of neighbouring occupiers. As such the application is recommended for approval subject to conditions which would include limiting the use of the outbuilding to only uses that are incidental to the enjoyment of Paddock Lodge and not for any business for commercial purposes.

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 - written representations, a hearing or inquiry.
- The decision is 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 a) promptly and b) in any event not later than 6 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 give 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 1970.

9.0 FINANCIAL IMPLICATIONS

- 9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far 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:

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS11 - Type and Affordability of housing
MD2 - Sustainable Design

RELEVANT PLANNING HISTORY:

OS/02/11891/FUL Alterations and extension at first floor level, demolition of existing outbuildings and construction of two storey extension with associated works GRANT 5th March 2002
OS/97/09865/FUL Extension to dwelling and provision of housekeeper's flat GRANT 13th August 1997
OS/08/15724/FUL Alterations and extension to existing wing to form granny and staff annex and associated works WDN 14th October 2008
OS/08/15815/FUL Alteration and extension to existing wing to form granny annexe and associated works REFUSE 6th January 2009
OS/93/8265/FUL Proposed hardwork conservatory GRANT 29th June 1993
OS/77/7547/FUL Erection of a two storey extension to provide additional living accommodation GRANT 23rd March 1977
OS/96/9352/FUL Re-siting existing vehicular access and proposed new front boundary wall GRANT 9th May 1996
10/02836/FUL Change of use of paddock for the siting of 9 holiday chalets with associated

works WDN 20th September 2010

10/04591/FUL Change of use of paddock for the siting of 5 holiday chalets with associated works REFUSE 14th December 2010

12/02689/FUL Change of use of paddock for the siting of 4 holiday chalets; formation of vehicular access/estate roads; installation of sewage treatment plant REFUSE 5th September 2012

16/03093/DIS Discharge of condition 3 (materials), condition 4 (access road), Condition 5 (drainage), condition 6 (bird and bat boxes) and condition 7 (lighting details) for the change of use of paddock for the siting of 4 holiday chalets; formation of vehicular access/estate roads; installation of sewage treatment plant relating to 12/02689/FUL. DISPAR 26th September 2016

17/05552/DIS Discharge of Conditions 3 (Materials) and 5 (Drainage) of planning permission

12/02689/FUL DISREF 20th December 2017

18/00530/DIS Discharge of Conditions 3 (Materials) and 5 (Drainage) of planning permission

12/02689/FUL GRANT 15th March 2018

20/04370/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the use of two buildings (units 6 and 8) as holiday let property; erection of four additional holiday units and one ancillary building REFUSE 21st May 2021

20/04371/CPE Application for Lawful Development Certificate for the existing use of one building as a holiday let property (plot 5) NL 21st July 2021

21/03587/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the use of plot 8 as holiday let accommodation and retention of storage building on site (re-submission) REFUSE 3rd November 2021

21/05866/CPE Application for Lawful Development Certificate for the existing use of holiday lodge accommodation NL 31st March 2022

22/03031/FUL Application under Section 73a of the Town and Country Planning Act for the retrospective erection of a tools/storage building PDE

Appeal

09/00487/REF Alteration and extension to existing wing to form granny annexe and associated works DISMIS 27th October 2009

Appeal

13/02028/REF Change of use of paddock for the siting of 4 holiday chalets; formation of vehicular access/estate roads; installation of sewage treatment plant ALLOW 2nd December 2013

Appeal

21/02970/REF Application under Section 73A of the Town and Country Planning Act 1990 for the use of two buildings (units 6 and 8) as holiday let property; erection of four additional holiday units and one ancillary building DISMIS 15th February 2022

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder) Councillor Richard Marshall
Local Member Cllr Vince Hunt
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. A scheme of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details and be operational within 4 months of the date of this permission.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

2. The outbuilding hereby approved shall only be used for purposes incidental to the enjoyment of the residential dwelling (Paddock Lodge) and shall not at any time be sold, let or otherwise disposed of or used for any business or commercial uses.

Reason: To safeguard the residential character and amenity of the area.