

Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 14/01796/FUL	<u>Parish:</u>	Wentnor
<u>Proposal:</u> Erection of affordable dwelling and detached domestic garage; installation of sewage treatment plant		
<u>Site Address:</u> Proposed Exception Dwelling South Of Upper Stedment Ratlinghope Shropshire		
<u>Applicant:</u> Mr John Muller		
<u>Case Officer:</u> Trystan Williams	<u>email:</u> planningdmsw@shropshire.gov.uk	

Grid Ref: 338595 – 297451



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Recommendation: Refuse**Recommended reasons for refusal:**

1. The proposal is contrary to the National Planning Policy Framework, Policies CS5 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy, and Shropshire Council's Supplementary Planning Document on the Type and Affordability of Housing, in that the site is in open countryside not within or adjoining any recognisable named settlement. Consequently there is a presumption against new residential development of any sort, in the absence of a demonstrable functional need for an agricultural worker to reside at or near to his place of work.
2. The site is in a particularly elevated and prominent location within the Shropshire Hills Area of Outstanding Natural Beauty. Consequently the development would detract from the generally open character and scenic quality of the landscape, contrary to the National Planning Policy Framework, Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy, and Shropshire Council's Supplementary Planning Document on the Type and Affordability of Housing.

REPORT**1.0 THE PROPOSAL**

- 1.1 This application seeks full planning permission to erect a single-storey 'affordable' dwelling for occupation by named individuals in local housing need. It is also proposed to erect a detached double garage, form an access spur off an existing driveway to the adjacent dwelling, and install a sewage treatment plant.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Upper Stedment Farm is set in some isolation on the eastern foothills of the Stiperstones ridge, approximately 2km northwest of Ratlinghope on the opposite side of the East Onny Valley, and within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). Immediately south of the modern portal-framed farm buildings is 'Stones View', an agricultural worker's dwelling finished traditionally in stone with brick dressings under a half-dormered slate roof. The proposed affordable dwelling would be sited in the northernmost corner of the field alongside. The surrounding landscape is elevated and very open in character, albeit with small pockets of woodland.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 In accordance with the Council's adopted 'Scheme of Delegation' the application is referred to the planning committee for determination since the officer's recommendation is contrary to the views of the Parish Council and Shropshire Council's Local Member. The application was submitted on the basis of potential support from these parties, and in the circumstances the Area Planning Manager considers that the relevant issues warrant consideration by the committee.

4.0 COMMUNITY REPRESENTATIONS**4.1 Consultee comments****4.1.1 Shropshire Council Flood and Water Management – comment:**

Details of the proposed surface water soakaways, to include percolation test results, sizing calculations and a layout plan, should be submitted for approval, and

a catch pit should be provided on the upstream side. The incorporation of further sustainable drainage systems (SuDS) should also be considered, and if the new driveway and parking area would slope towards the highway and have a non-permeable surface, measures to intercept run-off should be detailed.

4.1.2 Full details of the proposed sewage treatment plant are also required. These should include sizing calculations and a layout plan, together with the standard Foul Drainage Assessment (FDA1) form. *'British Water Flows and Loads: 3'* should be used to determine the capacity required, and an exemption certificate from the Environment Agency will be required if treated effluent would be discharged into any watercourse. Otherwise effluent should discharge into a drainage field, for which percolation test results and sizing calculations would again be needed.

4.1.3 All of these details could be secured by condition.

4.1.4 Shropshire Council Affordable Housing – no objection:

The applicants have demonstrated strong local connections to the Myndtown Combined Parish Council administrative area. After considering their housing needs and personal circumstances it is confirmed that the relevant requirements of the Supplementary Planning Document (SPD) relating to the 'build your own affordable home' scheme are satisfied as follows:

- The applicants intend to construct a 100m² (max.) affordable dwelling to occupy as their long-term home.
- The dwelling would be subject to a Section 106 agreement prescribing local occupancy criteria and also restricting its potential future sale value.
- The applicants currently live at Bridges in a property which is becoming increasingly difficult for them to manage owing to age and health problems. They therefore need to downsize into the proposed affordable dwelling, which would provide accommodation much more suitable for their current and future needs as well as being closer to their daughter for support and care.
- The existing property at Bridges would be sold, thereby releasing a family home onto the market.
- Besides family ties and residency, the applicants have strong local connections by virtue of previous employment.
- Myndtown Combined Parish Council has confirmed that the applicants have lived in the area for nearly 17 years. In view of Mr Muller's illness councillors support his wish to downsize and move closer to his daughter, and also acknowledge the shortage of bungalows for the elderly in the Parish and how rarely these become vacant.
- Shropshire Council's Local Member has also indicated support for the scheme since it would keep local people within the area.
- Owing to issues of affordability and availability of suitable accommodation the applicants are unable to meet their specific housing needs on the open market.

4.1.5 Wentnor Parish Council – support:

The new dwelling would enable local residents to remain in the area, and with a Section 106 agreement in place would remain an affordable dwelling available to other local people in the future.

4.1.6 Shropshire Council Ecology – no objection:

The application is accompanied by an ecological assessment. Since the site has potential to support foraging and commuting bats, external lighting should be controlled by condition. Meanwhile hedgerows should be retained and enhanced in order to support nesting birds.

4.1.7 Although there is a pond 190 metres away, further great crested newt survey work is not recommended given the size of the development and the lack of terrestrial habitat linking the pond to the application site. However, informatives regarding the legal status of great crested newts, the operation of trenches and storage of materials should be included as a precaution.

4.2 Public comments

4.2.1 None

5.0 THE MAIN ISSUES

- Principle of development
- Site location and landscape impact
- Scale and design
- Residential amenity
- Drainage
- Ecology

6.0 OFFICER APPRAISAL**6.1 Principle of development**

6.1.1 In order to meet specific local needs, Core Strategy Policies CS5 and CS11, along with the aforementioned SPD and Paragraph 54 of the National Planning Policy Framework (NPPF), allow for the construction of affordable dwellings on rural 'exception sites' outside settlements identified as being suitable for general, open-market development. In this case the Council's Housing Enabling Officer finds that the policy criteria in respect of local connections and housing need are satisfied for the reasons summarised above, and any planning permission granted would be subject to prior completion of a Section 106 agreement to ensure that the new dwelling remained 'affordable' to other qualifying local people in perpetuity.

6.2 Site location and landscape impact

6.2.1 In the view of officers, the shortcoming of this application is the site location. Under the Housing SPD even rural exception sites are required to be within or adjoining "recognisable named settlements" as opposed to isolated or sporadic development in open countryside. Guidance on what constitutes a recognisable named settlement can be found in Paragraphs 5.15 – 5.17 of that document, but essentially it is defined by a combination of the number and proximity of houses occupied by households from different families. A settlement's limit or edge is also open to interpretation depending on where the relationship between the different properties peters out, and hence a site a short distance from a dispersed or loose-knit settlement might be considered 'adjoining' whereas a similar distance from a tightly clustered settlement might be too great.

- 6.2.2 In this case the site adjoins a solitary farmstead which clearly does not comprise a settlement in its own right. Furthermore, it is too remote from the closest hamlet of Bridges to be regarded as adjoining that settlement. Significantly, the latter is a reasonably nucleated grouping around the pub nestled in the valley 1km to the southeast, and is not visible from the application site or vice versa. Whilst there are two other dwellings in-between, again these are visually unrelated to Stones View and even collectively the number of dwellings is too few to qualify as a settlement. Officers therefore consider that the scheme would perpetuate a scattered development pattern in generally open countryside, and moreover in a particularly elevated and exposed location where it would be all the more damaging to the landscape's rugged character and inherent beauty. Indeed, as noted in Paragraph 115 of the NPPF, AONBs have the highest status of protection in this regard.
- 6.2.3 Whilst it is conceded that the landscape is not completely untamed, the proposed dwelling would undoubtedly increase the massing of the existing farm complex by extending its linearity. Furthermore, the existing dwelling was approved as an exception to the usual policy restrictions on the basis of there being an essential need for an agricultural worker to live at Upper Stedment Farm. Although the current applicant's specific housing needs would undoubtedly be sufficient to override *some* of the usual locational criteria (i.e. an affordable dwelling adjoining a settlement not designated for open market development would potentially find support), officers opine that this in itself does not set a convincing precedent for allowing further housing in such a remote location. In short, it is suggested that the benefits to the applicant and his family, whilst considerable, do not outweigh the wider public harm which, cumulatively at least, would result from the erosion of a much valued and statutorily protected landscape. It is, however, noted that the Parish Council and Local Member, who appear to be aware of the family's circumstances, apportion the weight differently and reach the opposite conclusion.
- 6.3 **Scale and design**
- 6.3.1 The proposed dwelling is reasonably modest in scale, its gross internal floor space not exceeding the 100m² limit specified in the SPD. In the event of permission being granted 'permitted development' rights for subsequent extensions should be removed by condition, both in the interests of visual amenity and to help ensure that the property remains of a size which would be affordable to local people.
- 6.3.2 The design is of a high standard, an L-shaped footprint reducing the roof span and breaking up the massing whilst sympathetic materials and detailing successfully combine vernacular elements with the more contemporary. Precise details of external finishes and fenestration would need to be secured by further conditions should Members be minded to approve the scheme, as would compliance with Level 3 of the Code for Sustainable Homes in the energy and water efficiency categories.
- 6.3.3 Being detached from the house the garage would not contribute towards the restricted floor space, and its conversion into habitable accommodation could be prevented by condition. Its additional height (some 0.3 metres) is unfortunate, although a more subservient appearance might be achieved by stipulating a 'lower status' material such as weatherboarding.

6.4 Residential amenity

6.4.1 The plot is large enough to provide sufficient outdoor amenity space without exceeding the 0.1ha restriction imposed by the SPD. The adjacent property is owned by the same family, and in any case there would be no significant overlooking, overshadowing or loss of outlook given the orientation of the two dwellings and the presence of the garage in-between.

6.5 Drainage

6.5.1 As summarised above the Council's Drainage Engineer is satisfied that precise details of both foul and surface water drainage systems could be secured by condition.

6.6 Ecology

6.6.1 The Council's Ecologist agrees that there is no reasonable likelihood of protected species being affected directly, whilst disturbance to foraging or commuting bats could be mitigated through a condition controlling external lighting.

7.0 CONCLUSION

7.1 Although the applicant clearly fulfils the local connections and housing need criteria, the scheme is contrary to the relevant planning policies since the site is remote from any recognisable named settlement. Consequently, and notwithstanding the high standard of design and lack of amenity, drainage and ecological issues, there is a strong presumption against new residential development in any form, in order to preserve the generally open character and scenic quality of this upland landscape within the AONB. It is therefore recommended that planning permission is refused.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**8.1 Risk management**

8.1.1 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 three months 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**

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst 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.

8.2.2 Article 1 also requires that the desires of landowners must be balanced against the impact of development upon nationally important features and on residents.

8.2.3 This legislation has been taken into account in arriving at the above decision.

8.3 **Equalities**

8.3.1 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 if the decision and/or imposition of conditions are 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.

10.0 **BACKGROUND**

Relevant Planning Policies:

National Planning Policy Framework:

Part 6: Delivering a wide choice of high quality homes

Part 7: Requiring good design

Part 11: Conserving and enhancing the natural environment

Shropshire Local Development Framework:

Core Strategy Policies:

CS1: Strategic Approach

CS5: Countryside and Green Belt

CS6: Sustainable Design and Development Principles

CS11: Type and Affordability of Housing

CS17: Environmental Networks

CS18: Sustainable Water Management

Supplementary Planning Documents:

Type and Affordability of Housing

Relevant Planning History:

SS/1/6561/P/ – Erection of agricultural worker's dwelling and formation of vehicular access (permitted May 1996)

11. ADDITIONAL INFORMATION

List of Background Papers:

Application documents available to view on Council website

Cabinet Member (Portfolio Holder):

Cllr M. Price

Local Members:

Cllr Charlotte Barnes

Appendices:

Appendix 1 – Conditions and informatives

APPENDIX 1 – CONDITIONS AND INFORMATIVES

CONDITIONS

None

INFORMATIVES

1. Despite the Council wishing to work with the applicant in a positive and proactive manner as required in Paragraph 187 of the National Planning Policy Framework, the proposed development is contrary to the policies set out in the officer report and referred to in the reasons for refusal, and as such it has not been possible to reach an agreed solution in this case.