

# AGENDA ITEM



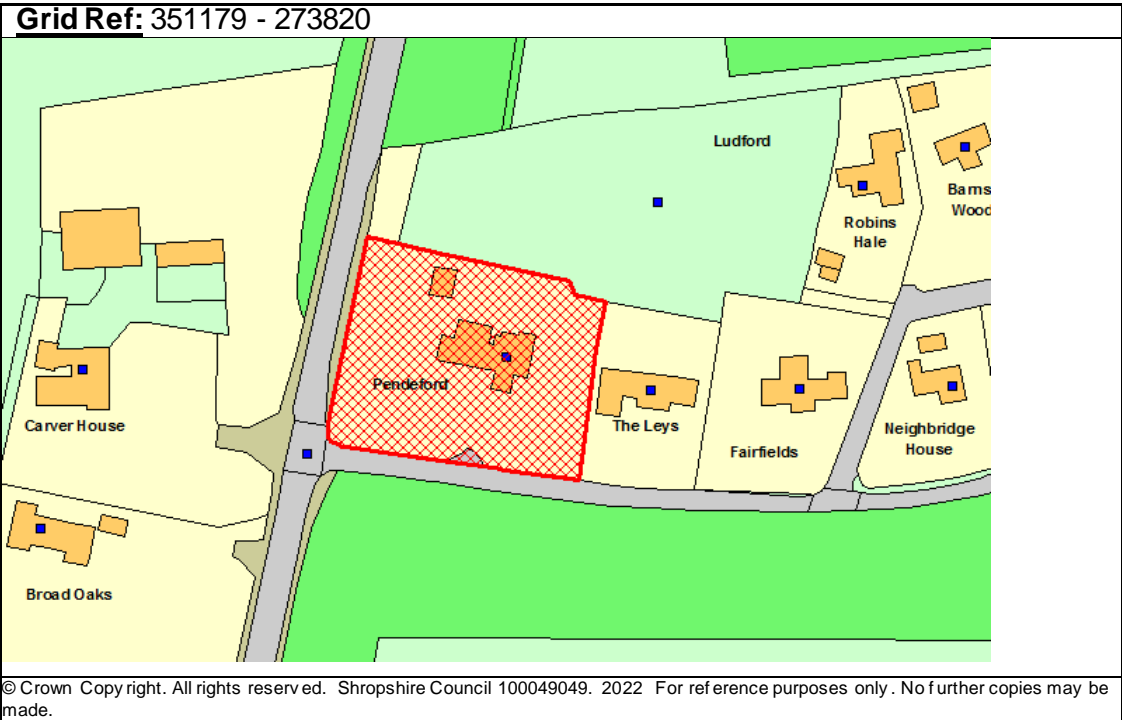
Committee and date  
  
**14th February 2023**

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 22/03472/FUL	<b>Parish:</b>	Ludford
<b>Proposal:</b> Erection of one dwelling (following demolition of existing buildings) and detached double garage/garden store, modifications to existing vehicular access, to include removal of trees (re-submission)		
<b>Site Address:</b> Pendeford Lower Barns Road Ludford Ludlow Shropshire		
<b>Applicant:</b> Mr & Mrs Fisher		
<b>Case Officer:</b> David Jones	<b>email:</b> david.jones@shropshire.gov.uk	



**Recommendation:- Refuse** subject to the conditions set out in Appendix 1.

## Recommended reason for refusal

1. The proposed replacement dwelling, and the associated garage are materially larger than the existing dwelling and garage that they replace, on account of the significant increase in the internal floor, height and the length (in the case of the garage). The scale, bulk, height, roof pitch and detailing of the proposed development is not sympathetic to the size and mass of the original property. The proposal is therefore contrary to Policy CS5, and CS6 of the adopted Core Strategy, SAMDev Policy MD7a, The Type and Affordability of Housing SPD, and the National Planning Policy Framework.

## REPORT

### 1.0 THE PROPOSAL

1.1 The application seeks planning permission for the erection of one dwelling (following demolition of existing buildings) and detached quadruple garage incorporating a garden and bin store. The application also seeks permission for modifications to existing vehicular access and the removal of trees

1.2 The planning application comprises a resubmission of planning application 22/00137/FUL which was refused for the following reasons:

1. The proposed replacement dwelling is materially larger than the existing dwelling it replaces, on account of the significant increase in footprint, internal floor and height proposed. The replacement dwelling does not occupy the same footprint as the existing due to its scale, and is not sympathetic to the size and mass of the original property. The proposal is therefore contrary to Policy CS5, and CS6 of the adopted Core Strategy, SAMDev Policy MD7a, paragraphs 2.20-2.23 of The Type and Affordability of Housing SPD, and paragraphs 11-14 of the National Planning Policy Framework.
2. It is considered that the proposed scale, massing, bulk, design and appearance of the replacement dwelling proposed will not reflect the existing building, nor does it appropriately respond to the character of the locality and surrounding development. The proposal will result in overbearing and visually prominent dwelling which fails to respond to the defining character of the existing scenario and will therefore have a detrimental impact on the existing buildings character and visual appearance within its rural setting. As such the proposal is considered contrary to Policies CS5, CS6, and CS17 of the Shropshire Core Strategy, Policies MD2, and MD12 of the SAMDev and the overall aims and objectives of the NPPF in relationship to sustainable development.
3. The extension of the curtilage associated with the dwelling on site will result in unjustified and unacceptable encroachment into the countryside whilst fragmenting an existing agricultural paddock and failing to respond to the development pattern and characteristics of the locality. For this reason the extension of the residential curtilage is considered contrary to Policies CS5, CS6, and CS17 of the Shropshire Core Strategy, Policies MD2, and MD12 of the SAMDev and the overall aims and objectives of the NPPF in relationship to sustainable development.

1.3 In comparison with planning application 22/00137/FUL the proposal has been amended as follows:

- An extension to the existing residential curtilage into the paddock to north has been omitted.
- Whilst the design of the proposed dwelling remains substantially the same the scale has been reduced by removing the integral garage which was previously proposed in proximity to the eastern boundary. Guest accommodation was included at first floor level in the integral garage but none is included as part of the current proposal.
- The previous garage was integral to the dwelling and was proposed in proximity to the eastern boundary, this has now been replaced by a quadruple garage building (incorporating a garden and bin store) along the western boundary. This garage is around 20.5 metres in length and 9.3 metres in width at its widest part. The design of the building is reflective of the proposed dwelling including steep pitched roofs.
- The pool house proposed previously has been omitted.

1.4 In total one individual tree (T6 Snowy mespil) and two groups (G1 Western red cedar & Lawson cypress and G2 Leyland Cypress) of trees are proposed to be removed. Additional hedge planting is proposed along the western boundary along the B4361 Overton Road.

## **2.0 SITE LOCATION/DESCRIPTION**

2.1 The application site comprises an existing dwelling and its curtilage. The site is located to the south of Ludlow to the north side of Lower Barns Road.

2.2 The boundaries of the site are currently formed of mature trees and hedging to the west and north, timber post and rail fencing to the east and a stone wall to the southern boundary to the highway.

2.3 In a wider context to the north of the site is an area of woodland, to the east are neighbouring residential properties, to the south beyond Lower Barns Road is agricultural land and to the west is the B4361 Overton Road, on the opposite side of which are two further residential dwellings and open countryside.

## **3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION**

3.1 The parish council and the local councillor support the planning application and it was decided at the southern agenda setting meeting that the planning application should be considered by the Southern Planning Committee.

## **4.0 Community Representations**

## **4.1 Consultee Comment**

### **4.1.1 Ludlow Parish Council – Support**

LPC are pleased to see that although the existing building is to be demolished, the new building appears to use the same footprint and that the garage is now separate to the house and on the opposite side i.e., by the road.

Extending the accommodation area by adding a first floor is a better choice and now the new house will be the same distance from the neighbouring property as it is now. LPC are pleased that there is no development planned for the paddock.

It appears that the applicant has paid attention to all previous comments and LPC now supports the application.

### **4.1.2 Councillor Vivienne Parry 03/10/2022 – Support**

This new plan seems to me to have addressed all the problems that the other plans put forward did not. The annex, garage is in a better position not next to the next door property and the Leylandii Trees removed and new screening a better outlook with the entrance splay made bigger to the entrance to Lower Barns Rd a great improvement making residents lives easier to get out on to the main road without incident always a hard job. The house is the right size for this site and will be an improvement on the old I wish this to go forward with my approval thanks.

### **4.1.3 SC SUDS –No Objection**

Informatives recommended.

### **4.1.4 SC Conservation – No Objection, conditions recommended.**

In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, policies MD2 and MD13 of the Site Allocations and Management of Development (SAMDev), the National Planning Policy Framework (NPPF) published July 2021, Planning Practice Guidance and Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

The application proposes the erection of one dwelling (following demolition of existing buildings) and detached double garage/garden store; modifications to existing vehicular access; to include removal of trees (resubmission) at Pendeford, Lower Barns Road, Ludford. The site

lies outside but close to the boundary of the conservation area. The property itself appears to be an early to mid twentieth century dwelling. The application includes a brief Heritage Impact Assessment and Design and Access Statement. On balance the proposal is not considered to create any undue harm to the character and appearance of the conservation area in this instance. The proposal would therefore be considered to generally accord with policies, guidance and legislation as outlined above from a conservation perspective.

#### 4.1.5 **SC Affordable Housing – No Objection**

No objection. The proposed development falls below the threshold by which the Local Planning Authority are able to require a contribution towards affordable housing. Therefore, no affordable housing obligations are relevant in this instance.

#### 4.1.6 **SC Ecology – 23.08.2022 – No Objection, conditions recommended.**

Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

#### 4.1.7 **SC Trees**

##### **Comments 22/8/22: Further Information Required**

For the following reasons the Tree Team find that from a landscape and arboricultural perspective there is insufficient information and detail to support this application as representing sustainable development and good design:

There are a number of mature trees and hedgerows on and adjacent to the site that are significant in the landscape at this key gateway to Ludlow, and whilst the Tree Team have no sustainable objection to the demolition of the existing property and construction of a new dwelling and outbuildings, it is noted that the demolition and new layout introduce a number of arboricultural implications that need to be addressed following best practice in relation to design demolition and construction in the proximity of trees. The trees of most notable significance are the mature pine trees at the front of the property and trees T9 (oak) T10 (Beech), T11 (Beech) & T13 (yew) at the rear the of the existing buildings between the garden and the paddock.

The arboricultural assessment Ref. 4559 dated 19/01/2022 is the same report as was submitted with the refused application reference 22/00137/FUL. The site layout has changed significantly introducing a

different set of arboricultural implications but the arboricultural report and tree protection plan do not reflect those changes. (See SC Trees addendum dated 22.08/2022 for interpretation).

It is noted that the arboricultural consultant has not had access to details for the ingress of new services or the layout of SUDS systems and any improvements to the septic tank arrangements the design and layout of these provisions needs to be informed by the Tree Constraints Plan and result in design that avoids or significantly mitigates any encroachments into the RPAs of retained trees.

In the light of the consultee comments submitted by the Drainage Team it is not clear how a sustainable urban drainage system incorporating a soakaway can be created at this site without significant detrimental arboricultural implications. This shortcoming in the arboricultural impact assessment was highlighted in the previous application 22/00137/FUL but the size and location of the new outbuilding coupled with arboricultural constraints exacerbates rather than improving the issues previously discussed

The proposed layout for the new outbuilding is of a scale and massing comparable to the one refused in the previous application (22/00137/FUL) but is located hard up against the Overton Road boundary with no perceptible option for landscape mitigation between the new building and the road. The Tree Team note that the Highways Team are seeking for a betterment of the main access to Overton Road from Barns Road this would necessitate further loss of vegetative screening from the site boundary significantly increasing the massing and influence of built structures at this gateway to Ludlow. From the perspective of national and local policy aspirations to sustainably incorporate new development into the local landscape this appears to be in direct conflict with the reasons given for the refusal of application 2/00137/FUL.

The indicative tree protection plan (BHA\_4559\_02) merits further improvements and needs to provide more information for the end user (developer) through clearly identify construction exclusion zones (CEZs) where Root Protection Areas (RPAs) fall outside the tree protection fences and the provision of details relating to the storage / location of toxic materials, cement mixing sites, fires and any other activities that might result in secondary arboricultural impacts from seepage or run off.

Section 8.4 of the Arboricultural Impact Assessment (AIS) sets out some heads of terms for an arboricultural method statement, whilst these are broadly acceptable there needs to be an inclusion of measures for the

engineering works, SUDS arrangements and location and route of services / septic tank and soakaways. The Tree Team note and support the need stated in the AIS for arboricultural oversight for elements of the development.

On the basis that the Tree Team are unable to determine / recommend that this application represents good design and sustainable development we are not advising on planning conditions at this time. However, should the Case Officer determine that in the balance of all relevant matters that it is expedient to progress this application towards consent without significant change then the Tree Team would be willing at that time to advise on conditions.

### **Comments 10/10/22: Further Information Required**

In their consultation comments (and addendum) dated 22nd August 2022 the Council's Tree Team highlighted a number of issues that make it impossible for them to support the application as representing sustainable development from arboricultural and landscape perspectives. The submission of the plans for the proposed access (Ref 401) dated 26/09/2022 fails to address any of the Tree Teams previously stated concerns whilst at the same time introducing several new arboricultural implications:

- i. The removal and reconstruction of the front boundary wall will impact upon the root protection areas (RPAs) of trees along the southern boundary of the site.
- ii. Moving the access has significant potential to impact upon the RPAs of the two mature pine trees.
- iii. The introduction of electric gates and the provision of a power source to the gates will require excavations in the RPAs of the two mature pines trees.

The trees along the sites frontage with the Lower Barns Road are important for any development at this sites sustainable integration into the local area, the likely damage done to the trees without any indication of input from a competent arboriculturist or for provision to mitigate or compensate for those impacts is contrary to aspirations for sustainable development set out in local and national policies and to good practice and design guidelines.

### **25.11.2022 – No Objection, planning conditions recommended.**

As discussed in their consultee comments of dated 10/10/2022 the Tree Team maintain that the revised proposed layout introduces works that have high potential to compromise tree T2 (mature pine) and degrade the

existing green infrastructure currently screening the site. But it is noted that the County Councillor and Parish Council have offered their support for this application indicating that this is a compromise that they are comfortable with.

Having considered the revised arboricultural impact assessment (AIS revised Nov. 2022) and revised tree retention removal and protection plan (Plan ref. BHA\_459\_02) the tree team note the following:

(i) A modified construction exclusion zone that offers better protection to tree T1, although no revised layout has been submitted in support of this.

(ii) A statement on the key that “No work to occur within CEZ without prior approval of Project Arboriculturist and/or LPA. All ground levels to be maintained as existing”.

(iii) Section 6.10. of the Tree report states: “Service installation: I have not been provided with plans showing the routes of new services or drainage for the property. The existing property is already connected to mains gas, water and electricity so it seems reasonable to assume that no new pipes or cables will need to be laid through the site for the property”. This is unsatisfactory and any future arboricultural method statement will need to identify the route of ingress and egress of all new or refurbished service runs and provide appropriate best practice solutions when working in the proximity of retained trees.

Section 8.4 of the Arboricultural Impact Assessment (AIS) sets out some heads of terms for an arboricultural method statement, whilst these are broadly acceptable there needs to be an inclusion of measures for the engineering works, SUDS arrangements and location and route of all services / septic tank and soakaways. The Tree Team note and support the need stated in the AIS for arboricultural oversight for elements of the development.

#### 4.1.8 **SC Archaeology – No Objection**

4.1.9 **SC Highways** – No objections and a planning condition is recommended to require that any gates are set back a minimum distance of 5 metres..

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Shropshire Council as Highway Authority has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.



## **Public Comments**

- 4.2.1 This application was advertised in the local newspaper and the Councils website. Additionally, a site notice was sent to the agent/applicant for erection at the site. At the time of writing this report, two representations of support had been received in response to this publicity.
- 4.2.2 The reasons cited for the supporting to the application can be summarised as follows:
- A next door neighbour supports the application on the basis that they consider that the design at 1 and a half is appropriate for the site and the context which is rural where there are individually designed properties with wide buffers between buildings.
  - The south-western corner of the Pendeford demesne severely impacts on visibility for traffic wishing to turn out of Lower Barns Road (LBR) and join the B4361 (Overton Road) by virtue of the high hedging, tall trees, and stone wall. This creates a potential accident risk and fortunately those accidents that have occurred in recent times have not resulted in serious injury which is exacerbated factors listed including the speed of vehicles. This application presents an opportunity to significantly diminish a road traffic accident risk by making it contingent on any planning approval that the hedge is cut back and the wall reduced to facilitate a vehicle's safe exit by improving the visibility at the road junction.

## **5.0 THE MAIN ISSUES**

Principle of development  
Siting, scale and design of structure

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy, the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes

guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

- 6.1.2 In terms of the principle of the development, Core Strategy Policy CS1 sets out a settlement hierarchy for Shropshire, with new development to be focussed in Shrewsbury, the main Market Towns, and other identified Key Centres, including Ludlow, in accordance with Core Strategy Policies CS2 and CS3. Policy CS4 seeks to ensure that in the rural areas of the county, those settlements defined as Community Hubs and Community Clusters are the focus for new development and investment. The objective is to provide facilities, economic development and housing for local needs, that is of a scale that is appropriate to each settlement. The remainder of the rural area of the county is defined as countryside, where new housing development is regulated in accordance with the Core Strategy Policy CS5 and SAMDev Policy MD7a. The site falls within the area of the county defined as countryside.
- 6.1.3 Policy MD7a specifically sets out the requirements in relation to replacement dwellings in the countryside and makes clear that they will only be permitted where the dwelling to be replaced is a permanent structure with an established continuing residential use and that they should not be materially larger and must occupy the same footprint as the existing dwelling, unless it can be satisfactorily demonstrated why this should not be the case. It also states that where the original dwelling has been previously extended or a larger replacement is approved, permitted development rights will normally be removed.
- 6.1.4 Further detail on these requirements is set out in the Council's Type and Affordability of the Housing Supplementary Planning Document (SPD) (September 2012) Paragraphs 2.20-2.24. The SPD on the Type and Affordability of Housing allows for the construction of replacement dwellings provided that the residential use of the original dwelling has not been abandoned. There is also a requirement for the visual impact of the replacement dwelling to respect the local character of the area taking into account bulk, scale, height and external appearance of the resultant dwelling. The replacement dwelling should be sited in the same position, and should also be similar in size and appearance to the building that is to be replaced.
- 6.1.5 With regard to design, Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy 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 development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. In addition, policy MD2 of

SAMDev also deals with the issue of sustainable design and builds further on policy CS6.

- 6.1.6 Section 12 of the National Planning Policy Framework; Achieving good design, reinforces these goals at a national level, by requiring development to display favourable design attributes which contribute positively to making places better for people, and which reinforce local distinctiveness.
- 6.1.7 Shropshire Core Strategy Policy CS17: Environmental Networks is concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreational values and function of these assets.
- 6.1.8 Policy MD13 of the SAMDev seeks to ensure Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored through appropriate and well considered design. This policy is relevant to this current application where the site is located in close proximity to the Conservation Area.
- 6.1.9 It was stated in the report on the previous planning application (22/00137/FUL) that officers were satisfied that the existing house retained its existing lawful residential use. It is reaffirmed that this is the case based on current case officer's site visit. The proposed dwelling is also substantially on the same footprint as the existing dwelling. In both these respects therefore the proposal is policy compliant. The scale of the proposed dwelling has been reduced relative to that proposed in the previous planning application, but the proposed dwelling is still larger than the existing and the proposed garage building is also larger than that proposed in the previous application. These aspects are assessed in detail in the next section of this report.

## **6.2 Siting, scale and design of structure**

- 6.2.1 This section of the report focuses on the requirement in policy MD7a that the replacement dwelling should not be materially larger than the dwelling it replaces. Paragraph 3.63 of MD7a explains that the control of replacement dwellings in the countryside needs to be considered in conjunction with the general criteria in the policy and in terms of visual, heritage loss and other impacts associated with the proposal. It goes on to explain that in the case of residential properties there is additionally the objective of regulating the size of replacement properties in order to limit the tendency towards the provision of larger dwellings in the

countryside and to maintain a mix of dwelling types.

- 6.2.2 The existing dwelling is single storey having a floor area of around 217.9m<sup>2</sup>. It has a pitched roof which attains a height to the ridge of around 6.37 metres. There is an existing garage to the rear which has a floor area of around 36.3m<sup>2</sup>.
- 6.2.3 The proposed dwelling in comparison is of three storeys in total. It includes sizeable living accommodation at ground floor level which amounts to an area of around 235 m<sup>2</sup>. At first floor level three bedrooms are proposed and there are associated en-suites and dressing rooms. At second floor level there is a reading room and store proposed. Including the accommodation at first (179 m<sup>2</sup>) and second floor (33m<sup>2</sup>) level the total floor area of the proposed dwelling would amount to around 447m<sup>2</sup>.
- 6.2.4 Presently within the existing residential curtilage there is a small single bay detached garage to the rear of the dwelling which would be demolished as part of the proposals. A new detached garage is proposed on the western boundary of the site. The siting of this detached garage is considered to be acceptable in spatial terms being adjacent to the existing hardstanding forming the driveway (which is to be extended), whilst it will result in the loss of trees (T6, G1 and G2) the council's Tree Team do not object. Turning to the scale of the detached garage, it would have 4-bays and incorporate a garden and bin store. It is a large building having a length of some 20.5 metres and is 9.3 metres in width at its widest. The highest part of the pitched roof of the garage is nearly 10 metres in height.
- 6.2.5 It is clear from the assessment above that the proposed replacement dwelling and garage represents a significant increase in scale relative to the modest existing house and garage present. Having regard to these considerations it is considered that the proposed replacement dwelling, and the associated garage are clearly 'materially larger'. The scheme is therefore considered to represent a conflict with policy MD7a in that the replacement dwelling and garage are materially larger than the development they replace. The harm arising from the conflict with this policy is considered to be significant.
- 6.2.6 The proposed development is located in a prominent location adjacent to the Overton Road which forms a principal thoroughfare into Ludlow. Lower Barns Road adjacent to the south leads to a number of other properties and also forms part of the route of a Public Right of Way. Officers consider that the scale of the dwelling and garage will be experienced as overbearing and dominant when viewed from Overton Road and Lower Barns Road. It is further considered that these impacts will be

exacerbated by the removal of the trees on the site. Whilst replacement planting is proposed this will take time to establish so will not mitigate the situation satisfactorily.

- 6.2.7 It is considered that the scale, bulk, height, roof pitch and detailing all fail to reflect the character of the original dwelling which is to be replaced and will have a significant detrimental impact upon the character of the area. The steep pitched roofs give vertical prominence to the dwelling and emphasise its height. When looking at the character of other dwellings in the locality the immediate neighbour to the east is a two-storey property which uses half dormer style windows to the first floor to reduce its height and bulk and progressing further east along Lower Barnes Road the dwellings are predominantly 1.5 storey dwellings where the roof space has been converted to form a second storey – the proposal conflicts with this character.

### **6.3 Other Matters**

- 6.3.1 The junction of Lower Barnes Road and Overton Road (and the southern most edge of application site) is 70 metres from the edge of the Conservation Area. The rear northern edge of the existing curtilage is 24 metres from the edge of the Conservation Area. The Conservation Area designation to the north of the site requires Officers to consider Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and the need to preserve and enhance it. In order to accord with the requirements of policy MD13 a short Heritage Impact Assessment has been submitted. The Comments of SC Conservation (Historic Environment) state that on balance it is not considered that the proposal including the removal of the trees will result in undue harm to the character and appearance of the conservation area in this instance. On this basis the impact of the proposal on the setting of the conservation area is considered to be compliant in policy and statutory terms.
- 6.3.2 Representations received explain that the south-western corner of the site impacts on the visibility available for traffic turning out of Lower Barnes Road and joining the B4361 (Overton Road) because of the high hedging present which increases the likelihood of an accident, further that the proposal affords an opportunity to improve this situation. Whilst the removal of trees as part of the proposal could improve visibility at this junction, additional planting is proposed along the western boundary to screen the garage which could negate these improvements over time.
- 6.3.3 In terms of residential amenity is not considered that the proposals would result in a demonstrable impact upon the neighbouring dwellings amenity through overshadowing, overlooking or overbearing.

## 7.0 CONCLUSION

7.1 To conclude, whilst the principle of providing a replacement dwelling in the open countryside is acceptable, there are requirements set down in policy MD7a regarding the scale and design and it is considered that this scheme conflicts with these provisions resulting in significant harm. On this basis the scheme cannot be supported and the conflict with this and other identified policies results in a recommendation of refusal.

## 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.

- 14th February 2023

Pendeford

## Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles  
CS17 - Environmental Networks  
MD2 - Sustainable Design  
MD7A - Managing Housing Development in the Countryside  
MD13 - Historic Environment  
SPD Type and Affordability of Housing

## RELEVANT PLANNING HISTORY:

PREAPP/17/00302 Erection of 4 No. Dwellings PREUDV 7th August 2017  
PREAPP/21/00096 Proposed replacement of existing dwelling formation of enclosed courtyard amenity space and walled garden. PREUDV 27th April 2021  
22/00137/FUL Erection of one dwelling (following demolition of existing buildings) and detached double garage/garden store; modifications to existing vehicular access; to include removal of trees and change of use of land to domestic garden land REFUSE 25th May 2022  
22/03472/FUL Erection of one dwelling (following demolition of existing buildings) and detached double garage/garden store, modifications to existing vehicular access, to include removal of trees (re-submission) PDE  
SS/1/6562/O/ Erection of a dwelling REFUSE 8th April 1996  
SS/1/1334/P/ Erection of an extension to existing dwelling PERCON 5th April 1991  
SS/1987/486/P/ Erection of a dwelling and alteration to existing vehicular and pedestrian access. WDN 20th August 1987  
SS/1980/277/P/ Erection of an extension to existing bungalow. PERCON 2nd May 1980  
SS/1979/760/P/ Erection of an extension to existing dwelling. PERCON 8th February 1980

## Appeal

SS/1/6562/O/ ERECTION OF A DWELLING. DISMIS 25th February 1997

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RFOY3WTDHTS00>

List of Background Papers (This MUST be completed for all reports, but does not include items



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- 14th February 2023

Pendeford

containing exempt or confidential information)

Cabinet Member (Portfolio Holder) - Councillor Richard Marshall

Local Member

Cllr Vivienne Parry

Appendices

APPENDIX 1 - Conditions

# AGENDA ITEM

- 14th February 2023

Pendeford

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

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