

AGENDA ITEM



Committee and date
Southern Planning Committee
21st May 2024

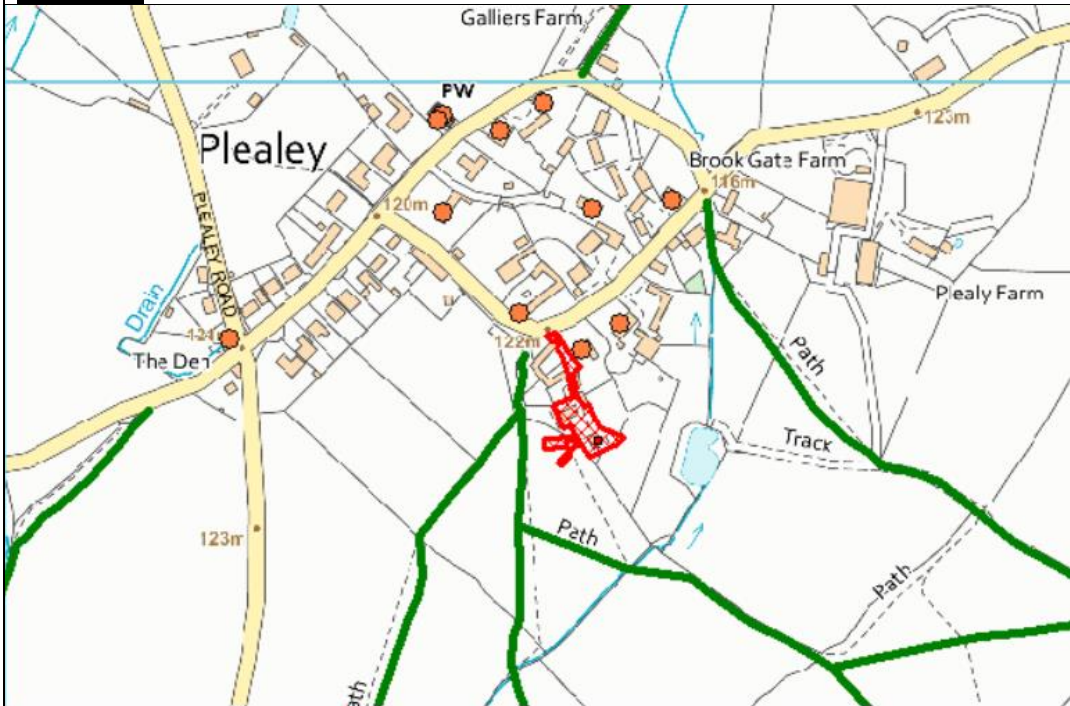
Development Management Report

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

Summary of Application

Application Number: 24/00121/FUL	Parish: Pontesbury
Proposal: Erection of a detached dwelling and conversion of Dutch barn to form garage/garden store	
Site Address: Proposed Residential Dwelling South Of Plealey Shrewsbury Shropshire	
Applicant: Mr C Willner	
Case Officer: Alison Tichford	email: alison.tichford@shropshire.gov.uk

Grid Ref: 342453 - 306727



Recommendation:- Refuse

Recommended reasons for refusal

1. The proposed site for a new open market dwelling falls outside any location considered sustainable within the local plan and falls within the policy considerations applicable to open countryside where new open market residential development is not generally acceptable subject to some limited exceptions. The guideline figures for new housing in the surrounding area are on target to be easily reached. Given the healthy state of the Council's current five-year housing land supply position, the proposal is not necessary to meet Shropshire Council housing development needs, and its approval would undermine the Council's strategy for the location of housing. Any economic or social benefits would be small in scale and largely private rather than contributing to the community and while the design of the dwelling may provide some small environmental benefits there are greater environmental costs in terms of sustainability, landscape and heritage such that the balance of material considerations would not support approval under CS5 or justify a departure from the development plan. As a consequence, open market residential development of the site is contrary to policies CS1, CS5 and CS17 of the Core Strategy, and policies MD1, MD3, MD7A, MD12 and MD13 of the SAMDev Policy, as well as being in conflict with the Pontesbury Neighbourhood Plan and the overall aims and objectives in relation to sustainable development as set out in the NPPF.

2. The proposed dwelling and associated infrastructure and paraphernalia would be a jarring new domestic built form to the rear of the established building line to the north and would protrude into and unacceptably impact upon the green space which contributes to views into and out of the Conservation Area. The design of the dwelling and the garage conversion of the barn would contrast uncomfortably with existing heritage assets to the north and there would be unacceptable visual and landscape impacts on the surrounding high quality rural landscape, as well as a view highlighted and protected within the Pontesbury Neighbourhood Plan. There are no significant public benefits which would outweigh this impact. The proposed development would be contrary to policies CS6 and CS17 of the SC Core Strategy and policies MD2, MD12 and MD13 of the SC SAMDev plan which all seek to ensure that development conserves and enhances the natural, built and historic environment and local character.

REPORT

1.0 THE PROPOSAL

- 1.1 The application proposes the erection of a new open market detached 2-bedroom dwelling with floor area of 180sq.m appx. and the conversion of a Dutch barn to form a garage/garden store.
- 1.2 The site has been subject of a previous appeal decision following the refusal for the proposed conversion of the Dutch barn to a dwelling. (APP.L3245/W/21/3276390)
The appeal was dismissed (and is attached as appendix 1 of this report)

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposed site lies within the Plealey Conservation Area which extends beyond the dwellings clustered around the roads through the village to include the fields beyond in order to retain the rural setting of the village.
- 2.2 The dwelling will be accessed from the 60mph C classified road which runs through Plealey and will be set back appx. 83m from this road. The access from the road is already used by the listed farmhouse adjacent and by residents of a converted barn building, as well as by farm vehicles, although there is an additional access for farm vehicles from the classified road.
- 2.3 The site lies in close proximity to the rear of grade II listed buildings - The Old Farmhouse and Red House, and there are further listed buildings to the north of the C road through the village. The land does not appear to have any continued association with any farmhouse but is part of a larger area of agricultural land adjacent owned by the applicant.
- 2.4 There are existing late C20 sheds on the site (to be demolished) as well as the large mid C20 open-sided Dutch Barn.
- 2.5 The site is appx 200m to the east of the boundary of the Shropshire Hills National Landscape and there are far reaching views to the south across the lands of Longden Manor.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council and Local Member have submitted a view contrary to officers based on material planning reasons, the contrary views cannot be overcome by negotiation or the imposition of planning conditions and the Planning Services Manager in consultation with the Committee Chairman and Local Member agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 SC Environmental Protection – the proposed development is in a development low risk area and therefore a mine gas risk assessment should be required by pre commencement condition.
- 4.1.2 SC Ecology - no objection subject to conditions and informative advice to ensure the protection of wildlife and to provide biodiversity enhancements.
- 4.1.3 SC Conservation – no objection but raise previous appeal and potential policy issues.
- 4.1.4 SC Trees – no objection subject to pre-commencement conditions
- 4.1.5 SC Archaeology - no objection subject to a pre commencement condition requiring a programme of archaeological works.
- 4.1.6 SC Flood and Water Management – no objection subject to a pre commencement condition
- 4.1.7 SC Highways - no objection subject to improvements to the existing access to give better visibility (as mentioned in Planning Statement but no detail provided).

4.2 Public Comments

- 4.2.1 Pontesbury Parish Council have made comments in support of the application on grounds as follows:
 - Sustainable development which will help to achieve a balance of housing type in Plealey in line with CS11.
 - Pontesbury Neighbourhood Plan highlights the need for single-storey dwellings in the parish.
 - Will enable the retention of the Dutch barn which is part of the character of the Conservation Area and a heritage asset.
 - There will be no significant impact on the neighbouring listed building or the character of the Conservation Area
 - Design will ensure it sits fairly unobtrusively in the landscape and conservation area.
 - Previously developed brown field site

The Parish Council also strongly supported the replacement of hardwood trees.
- 4.2.2 The local member has also made comments in support of the proposed application.
 - there has been an appropriate response made to comments from the appeal inspector on the previous application.
 - The design is sustainable and aims to be unobtrusive within the overall landscape.
 - Residents consider the development will have no impact on adjoining listed buildings or on the character of the surrounding village and Conservation Area.
 - Pontesbury is within walking distance and many residents do walk there for services.
 - The application will enable the retention of the Dutch barn as a garage/garden store

5.0 THE MAIN ISSUES

- 5.1 Principle of development
Further Considerations
- Sustainable Design
 - Sustainable Location
 - Appropriate Housing Mix and Type
 - Retention of the Dutch barn
 - Use of “brownfield” site
 - Housing Supply
 - Visual impact
 - Scale, design and landscaping
 - Impact on heritage assets
 - Highways
 - Fire Safety
 - Residential Amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Para 11 of the revised NPPF indicates that if the local development plan is up to date, the presumption in favour of sustainable development is satisfied by the approval of development proposals that accord with it and Paragraph 12 clearly states that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted, unless material considerations in a particular case indicate that the plan should not be followed.
- 6.1.2 Core Strategy Policies CS1, CS2, CS3, CS4, and CS11 seek to steer new housing to sites within market towns, other ‘key centres’ and certain named villages (‘Community Hubs and Clusters’). Shropshire Council’s SAMDev Plan MD1 and Settlement Policies S1 through S18 indicate those locations considered sustainable and capable of supplying additional housing throughout the plan period.
- 6.1.3 The site lies outside any development boundary and does not fall within a hub or cluster settlement. The site is therefore considered as falling within open countryside where open market housing is generally resisted (CS5, MD2, MD7a)
- 6.1.4 SAMDev Policy MD3 allows some potential for housing outside defined settlement boundaries where the settlement housing guideline is unlikely to be met but in this case housing requirements for Pontesbury have been met and significantly exceeded.
- 6.1.5 CS Policy CS5 highlights that new development will be strictly controlled to protect the countryside in line with national policy, but that proposals on appropriate sites which maintain and enhance the countryside vitality and character may be permitted if they improve the sustainability of rural communities by bringing local economic and community benefits. Open market housing does not appear in the list of potential examples and MD7A highlights that new market housing will be strictly controlled in areas outside hubs and clusters with only exception site dwellings,

rural worker dwellings and residential conversions to meet evidenced local housing needs indicated as potential permissible development.

6.1.6 Policy CS11 is closely linked with the Strategic Approach (Policy CS1) and with CS5, and together these aim to ensure that the development that does take place in the rural areas is of community benefit with local needs affordable housing a priority.

6.1.7 The Pontesbury Neighbourhood Plan confirms that outside of Pontesbury village the rest of the parish is classified as open countryside which means that development is strictly controlled and that this policy plays a crucial part in safeguarding the rural nature of the area. The Plan's vision statement seeks for new development to be mainly confined to Pontesbury village.

6.1.8 Therefore, by virtue of its location outside of any defined settlement boundary, the appeal site would not be a suitable location for the proposal, having regard to the development strategy for the area. Consequently, it would conflict with CS Policies CS1, CS5 and CS11 as well as SAMDev Policies MD1, MD3, and MD7A, which, amongst other things, seeks to direct housing development to sustainable locations.

7.0 Further Considerations

7.1 Sustainable Design

7.1.1 The dwelling is proposed with inset solar panels to the roof and ground source heating. While no information is provided with regard to the impact of these measures upon the energy needs of the dwelling as designed, these benefits offer some modest support to the proposed development – although the solar panels may lead to a little additional prominence within the rural landscape. There are no biodiversity concerns subject to appropriate conditions to ensure protection and enhancements.

7.2 Sustainable location

7.2.1 As discussed above, local housing strategy would regard the site as not in a sustainable location. The Council is satisfied that it is able to demonstrate a deliverable 5-year housing land supply to meet the housing need through the sites identified within the SAMDev Plan. Consequently, the Council's policies on the amount and location of residential development can be regarded as up-to-date and the presumption with regard to sustainable development contained in paragraph 11(d) of the NPPF is not engaged.

7.2.2 The applicant has however sought to respond to the earlier appeal inspector's comment that no evidence had been provided to suggest the site is close to accessible infrastructure services and employment areas.

7.2.3 The planning statement seeks to rely on permissions 14/02854/OUT and 15/00191/OUT. However, both these applications pre-date the previous 2021 appeal decision where the Inspector gave 14/02854/OUT little weight and were determined before full weight could be attributed to the housing supply strategy outlined in the SAMDev. The NPPF has since highlighted that the three elements of

- sustainability are not for consideration on every decision, and that fit with the local housing strategy is sufficient to determine sustainability.
- 7.2.4 The applicant also seeks to use two recent appeal decisions in support of the application; however, the proposed development sites were of quite a different nature than in the current application, with services and facilities readily available. In APP/L3245/W/21/3288834 a rare open market development was supported by the appeal inspector, the proposed development was within/immediately adjacent to a community hub and within walking distance of existing services and facilities, while in APP/L3245/W/22/3310764, the proposed site was considered to be fully contained by existing residential development in Hadnall, lacking any visual connection to the broader countryside beyond, within easy reach of local services and facilities in Hadnall itself, and with accessible public transport to other villages. (Hadnall is also promoted as a community hub in the emerging local plan)
- 7.2.5 This site lies beyond the existing building line at Plealey within the fields which form part of the Conservation Area and Plealey itself has no facilities or services and limited employment opportunities. The Plealey Conservation Area appraisal document confirms that additional housing is not supported under the local plan and that the size of the village and poor provision of local services would mean that sustainable development would be difficult to achieve.
- 7.2.6 The local member has stated that Pontesbury is within walking distance and that local residents do walk there for services.
- 7.2.7 The facilities at Pontesbury are appx. 2.7km away by road and the nearest public transport would require a 1.5km walk along unlit rural roads with no pavements. While there are some public footpaths to Pontesbury across the fields and over the hills these will not be suitable for use in all weathers and unlikely to be suitable for shopping trips given the tricky terrain and heavy burdens on the return journey, as well as the return trip taking perhaps 3 hours rather than the 20-25 minute there and back journey by car.
- 7.2.8 While pedestrians and cyclists do sometimes use the roadways there are no pavements and no cycle ways and the roads out of Plealey are narrow and high hedged. The inspector making the judgement on the 2021 appeal on this site noted that rural roads in the immediate vicinity leading to other settlements lack continuous pedestrian footways and adequate lighting. The Inspector felt that this together with the distances to larger towns and higher order settlements would likely make options to walk and cycle undesirable to potential occupiers as a regular and sustainable means of travel and would be harmful as it would encourage car use.
- 7.2.9 The development would therefore be contrary to the aims of the NPPF, the local plan, Zero Carbon Shropshire and seems to run counter in this regard to Policy GRE4 (Carbon Reduction) of the Pontesbury Neighbourhood Plan which indicates support for development proposals which support the transition to net zero.
- 7.2.10 There is no compelling reason to alter from the previous Inspector's conclusion that the site would conflict with the Council's settlement strategy as set out in policies CS1, CS5, CS11, MD1 and MD7a which seek to locate new homes where there is ready access to services and facilities. The Inspector also considered that the

development would conflict with s.9 of the NPPF which promotes opportunities to maximise sustainable transport solutions in decision making and overall attributed substantial weight to the harm identified.

7.3 **Appropriate housing mix and type**

- 7.3.1 The Parish Council has indicated support on the basis that the development will help to achieve a balance of housing type in Plealey in line with CS11 and that the Pontesbury Neighbourhood Plan highlights the need for single-storey dwellings in the parish
- 7.3.2 There is no policy within the Pontesbury Neighbourhood Plan which provides support for single storey dwellings in Plealey – policy HOU2 offers a measure of support for these in Pontesbury itself but remains subject to clear local evidence of housing need. In any case, there is an existing supply of single storey accommodation available within Plealey and no established evidence of a local housing need.
- 7.3.3. While CS11 does seek to balance housing types this is not sought in isolation from the remainder of the housing strategy and within open countryside any such development would be required to be of community benefit with local needs affordable housing a priority.
- 7.3.4 There is no indication that an exception site dwelling is sought and while the proposed dwelling is indicated to have only 2 bedrooms, it would have appx. 80sq.m more floorspace than is permitted for a single plot exception site dwelling, as well as a very large garage building of appx. 89sq.m.
- 7.3.5 There would be individual private benefit from the development but no indication of long-term benefits to the community of Plealey and there is no indication that a levy will be payable towards community infrastructure.
- 7.3.6 The provision of a large single storey dwelling and store building in Plealey will not significantly alter the existing balance of housing types and will provide no public community benefit to counter the proposed development's conflict with local housing strategy.

7.4 **Retention of the Dutch Barn**

- 7.4.1 It is proposed to convert an existing dutch barn into a garage/store building for the new dwelling and this may have incidental public cost or benefit.
- 7.4.2 The existing dutch barn has appx 89sq.m of ground floor space, is 7.5m high, appx 13.9 long x 6.4m appx deep. The plans show one short clad wall, but a site visit indicates one long wall has recently also been clad in new materials.
- 7.4.3 The local member and parish council comment that the proposed development will enable the retention of the dutch barn already on site by conversion to a garage/garden store.
- 7.4.4 The dutch barn does perhaps make a small contribution to the visual landscape here in its existing form as part of the view towards the historic farmstead, although it does also restrict views and is rather dominant even in its current open sided form, but the proposed alterations are extensive and go beyond a conversion in both national and local policy terms and will not retain the existing character of the

barn: the openness of the current structure softens its height a little providing views through to the buildings beyond, and also evidences its agricultural purpose as an open hay bale store within the context of the designated heritage assets to the north.

- 7.4.5 While the applicant's submitted heritage impact assessment does consider the dutch barn to be a non-designated heritage asset, a very similar heritage impact assessment by the same author with limited alteration was available to the previous appeal inspector (with regard to conversion to a dwelling) who considered that while the barn might be of appropriate age and materials, it "did not exhibit any architectural details of particular significance or aesthetic value and that its design was common to rural locations." The Inspector considered the barns skeletal design did not "lend itself to a straightforward conversion scheme and that filling in the open spaces within the framing would accentuate the bulk and mass of the building relative to other prominent nearby former farmstead brick buildings with obvious heritage and aesthetic value and would urbanise the site so as to make it unsympathetic to the existing rural surroundings in which it was viewed and make it incongruous to the area's most positive and distinctive qualities", "with no significant public benefit or visual improvement as a result of the conversion.
- 7.4.6 While the barn would now be converted to an incidental building, it would provide a very tall and large building for these purposes and the works would involve significant alteration in a location distant from services and facilities, (contrary to policy LAN2 of the Pontesbury Neighbourhood Plan), with a correspondingly significant alteration to its existing character and visual impact with regard to heritage assets and landscape.
- 7.4.7 There is no substantial reason to disagree with the previous appeal Inspector that a proposed conversion of the barn would be harmful to the character and appearance of the existing building and rural area, in conflict with CS5. The potential future loss of the building if no longer useful for agriculture would not be appropriately compensated by its consolidation into a building of new character incidental to a new dwellinghouse.
- 7.4.8 The barn could be retained in its current form as a covered parking area if wanted, but the proposed conversion to a garage does not provide any public benefits to outweigh conflict with local housing strategy.
- 7.5 **Use of "brownfield" site**
- 7.5.1 The Parish Council supports the application on the basis that it makes use of a "brownfield" site. There is no evidence of any other use other than agriculture or of any contamination or need for restoration. The NPPF definition of previously developed/brownfield land excludes land that is or was last occupied by agricultural buildings. The existing buildings are appropriate to the context and any disrepair would not be so significant as to justify their replacement contrary to local housing strategy.
- 7.6 **Housing Supply**

7.6.1 The delivery of a single, single storey open market dwelling would make a very modest contribution to boosting housing supply and correspondingly modest weight is attached to this benefit.

7.7 Visual impact

7.7.1 Policy CS17 requires that all development protects and enhances the high quality and local character of Shropshire's natural and historic environment.

7.7.2 The conservation area of Plealey is highlighted within the Pontesbury Neighbourhood Plan as an outstanding heritage asset of the Parish.

7.7.3 Policy LAN 1 of the Pontesbury Neighbourhood Plan indicates support for policy compliant development which maintains or where possible enhances the landscape character of the parish, and policy LAN3 seeks respect for some highly valued amenity views, one of which views is that from the footpath next to Red Barn, where it is highlighted that safeguarding this view will provide an extra layer of protection for the setting of Plealey Conservation Area. .

7.7.4 The Plealey Conservation Area appraisal document highlights that the fields within the Conservation Area to the northeast and south of Plealey form the foreground to the village as it is approached from the surrounding area by road/foot and give Plealey its distinctive rural character. It goes further in confirming that these green field spaces help to maintain the soft boundary that exists between village and countryside and permit excellent views both in and out of the Conservation Area as they allow the countryside to penetrate and break up the pattern of the settlement.

7.7.5 While the new dwelling will replace existing agricultural barns of no particular merit, the latter do currently form part of the rural setting to the Conservation Area, whereas the proposed new dwelling will extend residential development and accompanying domestic paraphernalia further south than the existing historic building line and impact therefore upon the appreciation of the heritage assets, particularly in views from the south and west, and local footpaths.

7.7.6 The proposed development will not protect and enhance quality and character of the landscape here contrary to CS17 and policy LAN1 of the neighbourhood plan and will have some particular impact with regard to the view from land adjacent and protected under policy LAN3 of the neighbourhood plan.

7.8 Design, Scale and Landscaping

7.8.1 The application proposes a low contemporary styled dwelling with multiple mono-pitched roofs in stone and timber as well as the filling in of the walls to the Dutch barn and the introduction of glazing and garage doors. The dwelling will offer appx. 185 sqm floorspace and be of moderate 5.7m height while the garage will have a further 89sq.m floor area and be appx. 7.2m tall.

7.8.2 The application could be improved perhaps by providing a traditionally laid hedge to the rear boundary as the Conservation Area Appraisal notes that these are an essential characteristic of back gardens adjoining the countryside, together with brick and stone boundary walls to the front of properties. Any improvements to the access would require consideration with a view to retaining existing walling.

- 7.8.3 Further improvements could be made by providing a tree planting plan to replace the ash tree which is to be felled and the hedgerow removal. The TPP and method statement demonstrate that remaining trees can be protected adequately, but further details would be required by condition with regard to the no dig method proposed.
- 7.8.4 Overall, however, as outlined earlier, while there are a variety of housing styles, there are very few new buildings within the Conservation Area, and at this particular location officers consider the development does not respond appropriately to the form and layout of the existing development, extending beyond the existing perimeter build line, contrasting significantly with the red brick heritage assets at this southern boundary, and with the filled in Dutch barn providing an overly large garage building which will be quite altered in character. This conclusion is in line with the previous appeal inspector's finding that the conversion of the barn by itself would be incongruous to the area's most positive and distinctive qualities and harmful to the character and appearance of the existing building and rural area and that potential enhancements in building materials and landscaping would not alleviate their concerns. The new development will not enhance the natural and built environment and would not satisfy CS6, CS17 or MD2 and MD13.
- 7.9 Impact on heritage assets**
- 7.9.1 Section 72(1) of the Town and Country Planning Listed Building and Conservation Area Act 1990 requires that special attention is given to the desirability of preserving or enhancing the character or appearance of Conservation Areas and section 66(1) of the Act requires that special regard is given to the desirability of preserving the setting of listed buildings.
- 7.9.2 On the other hand, para 206 of the NPPF does offer some support for new development within Conservation Areas and within the setting of heritage assets if any development enhances or better reveals the significance of those assets.
- 7.9.3 The heritage impact assessment concludes there is no harm, as defined within the NPPF, to heritage assets but is rather limited in its assessment of the impact of the development on the rural setting of the Conservation Area in consideration of the deliberate inclusion of surrounding fields to provide a rural context to the settlement.
- 7.9.4 Conservation consultees have no in principle heritage objection but have highlighted the previous appeal inspector's decision and local and national policy on new dwellings in the countryside (as outlined above) and are concerned that visual recession should be achieved to minimize and mitigate impact on the heritage assets.
- 7.10 Highways**
- 7.10.1 The applicant has indicated that amendments may be made to the access but has not specified any details. Improvements to the driveway/access seem likely to impact on the gardens to the listed/curtilage listed buildings. The applicant's agent argues that the access is currently served by farm traffic and suggests this will cease/reduce (each indicated in 1 of 2 separate statements) should the dwelling be

approved, which will be of benefit to existing as well as the new dwelling. They also argue that traffic speeds are slow at this point in Plealey, the access is wide enough for 2-way traffic on entering/exit and adequately serves existing dwellings. Highways consultees have no objection subject to further details with regard to access improvements which could be required by condition.

7.11 Fire Safety

7.11.1 The access drive to the new dwelling is longer than 45m and at one point is only 2.73m wide with a building wall in the way. This does not meet guidance provided by Shropshire Fire and Rescue with regard to householder safety from fire risk and will likely require further consideration and possible amendments at building regulations stage. Amendments would require further planning permission.

7.12 Residential Amenity

7.12.1 The proposed development is at sufficient distance and orientation with regard to nearby dwellings as to be unlikely to create any detriment to residential amenity.

8.0 CONCLUSION

8.1 The proposed site for a new open market dwelling falls outside any location considered sustainable within the local plan and falls within the policy considerations applicable to open countryside where new open market residential development is not generally acceptable subject to some limited exceptions. The guideline figures for new housing in the surrounding area are on target to be easily reached. Given the healthy state of the Council's current five-year housing land supply position, the proposal is not necessary to meet Shropshire Council housing development needs, and its approval would undermine the Council's strategy for the location of housing. Any economic or social benefits would be small in scale and largely private rather than contributing to the community and while the design of the dwelling may provide some small environmental benefits there are greater environmental costs in terms of sustainability, landscape and heritage such that the balance of material considerations would not support approval under CS5 or justify a departure from the development plan. As a consequence, open market residential development of the site is contrary to policies CS1, CS5 and CS17 of the Core Strategy, and policies MD1, MD3, MD7A, MD12 and MD13 of the SAMDev Policy, as well as being in conflict with the Pontesbury Neighbourhood Plan and the overall aims and objectives in relationship to sustainable development as set out in the NPPF.

8.2 The proposed dwelling and associated infrastructure and paraphernalia would be a jarring new domestic built form to the rear of the established building line to the north and would protrude into and unacceptably impact upon the green space which contributes to views into and out of the Conservation Area. The design of the dwelling and the garage conversion of the barn would contrast uncomfortably with existing heritage assets to the north and there would be unacceptable visual and landscape impacts on the surrounding high quality rural landscape, as well as a

view highlighted and protected within the Pontesbury Neighbourhood Plan. There are no significant public benefits which would outweigh this impact. The proposed development would be contrary to policies CS6 and CS17 of the SC Core Strategy and policies MD2, MD12 and MD13 of the SC SAMDev policy which all seek to ensure that development conserves and enhances the natural, built and historic environment and local character.

9.0 Risk Assessment and Opportunities Appraisal

9.1

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 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.

9.2 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.

9.3 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.

10.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy:
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

SAMDev Policies
MD1 Scale and Distribution of Development
MD2 Sustainable Design
MD3 Managing Housing Development
MD7A Managing Housing Development in the Countryside
MD12 Natural Environment
MD13 Historic Environment

AGENDA ITEM

Southern Planning Committee - 21st May 2024

Proposed Residential
Dwelling South Of

Pontesbury Neighbourhood Plan

RELEVANT PLANNING HISTORY:

20/00602/FUL Conversion of barn to 1No dwelling and installation of package treatment plant
WDN 29th May 2020

20/03082/FUL Conversion of barn to 1No dwelling and installation of package treatment plant
(Re-submission) REFUSE 12th January 2021

23/04125/FUL Erection of a detached dwelling and conversion of barn to form garage/garden
store WDN 21st November 2023

Appeal

21/02961/REF Conversion of barn to 1No dwelling and installation of package treatment plant
(Re-submission) DISMIS 23rd December 2021

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S742BOTDMNG00>

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 Chris Schofield

Local Member

Cllr Roger Evans

Appendices
APPENDIX 1 - Full text of APP.L3245/W/21/3276390

AGENDA ITEM

Southern Planning Committee - 21st May 2024

Proposed Residential
Dwelling South Of

APPENDIX 1

Full text of APP.L3245/W/21/3276390 as requested by Chair.