

## Development Management Report

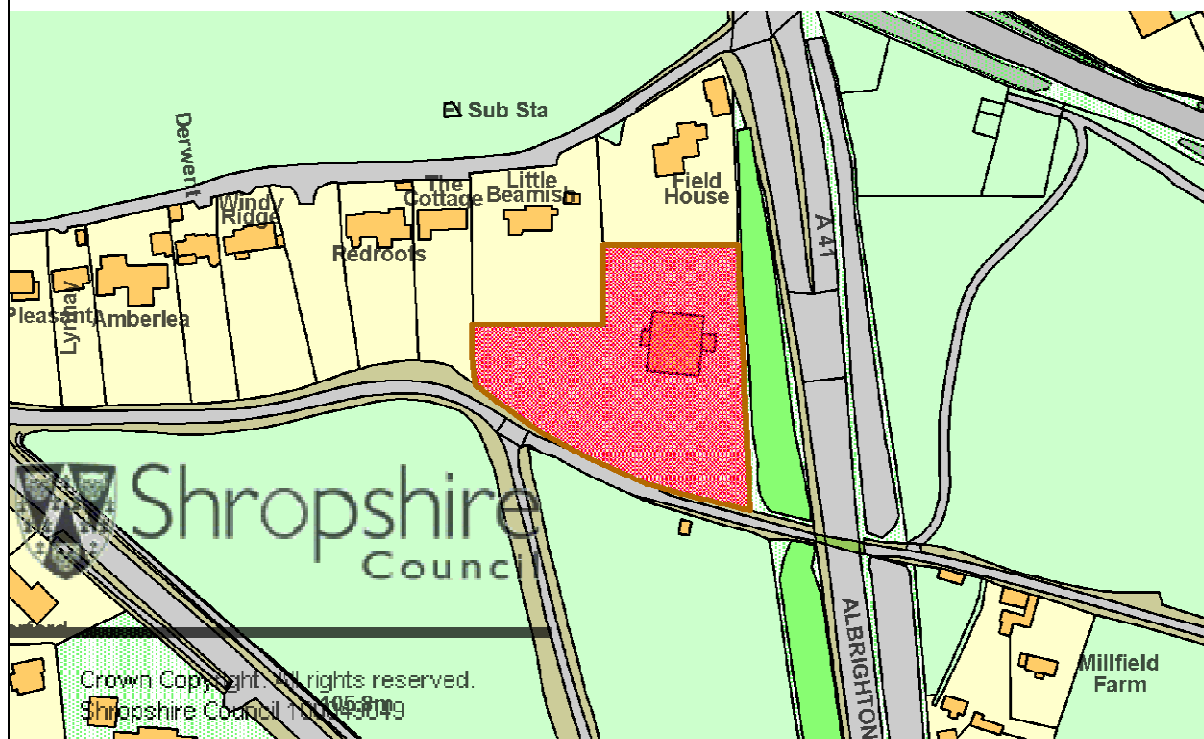
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 14/00622/FUL	<b>Parish:</b> Albrighton
<b>Proposal:</b> Change of use of existing detached swimming pool building within the grounds to Field House into 1no. dwelling to include extension over existing roofed patio to create additional internal habitable space	
<b>Site Address:</b> Field House Beamish Lane Albrighton Wolverhampton WV7 3JJ	
<b>Applicant:</b> Mr & Mrs M L Sahni	
<b>Case Officer:</b> Richard Fortune	<b>email:</b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>

**Grid Ref:** 382490 - 304038



**Recommendation:- Permit, subject to a Section 106 Agreement relating to an affordable housing contribution and to the conditions set out in Appendix 1.**

## **REPORT**

### **1.0 PURPOSE OF THE REPORT**

- 1.1 The purpose of this report is to advise members of the potential reason for refusal of this application based on discussion at the last meeting of the Committee and to set out the associated risks with this decision for consideration by members.
- 1.2 It is essential in considering this application and the suggested reason as set out below, following the debate and 'minded to refuse' resolution at the last meeting, that members are fully aware of officer concerns relating to this decision. It must be stressed that in order to successfully defend an appeal against a refusal the Council would need to offer 'evidence' for consideration. The report below therefore also sets out the reasons why officers are strongly of the opinion that no such evidence can be provided or substantiated and that therefore there would be a significant risk to the Council in terms of losing an appeal and potentially having to meet some or all of the applicants costs.
- 1.3 This report is written in accordance with paragraph 16.4 (part 5) of the Council's Constitution.

### **2.0 BACKGROUND**

- 2.1 At the 19th August 2014 meeting of the South Planning Committee Members resolved to defer determination of this planning application reference 14/00622/FUL relating to a full application for the change of use of existing detached swimming pool building within the grounds to Field House, Beamish Lane, Albrighton into an independent dwelling. Members did however indicate that they were minded to refuse the application and sought officer guidance on the wording of the reason for refusal to be considered at the following meeting
- 2.2 Based on the debate at the meeting on 19<sup>th</sup> August 2014 the following reason for refusal was proposed by the Committee:  
"The proposed change of use to a dwelling would be in an unsustainable location in the Green Belt."
- 2.3 The original report to Committee for the meeting on the 19<sup>th</sup> August 2014 is appended to this report. (APPENDIX 2).

### **3.0 CONSIDERATION OF THE PROPOSED REASON FOR REFUSAL**

- 3.1 The residential character of the site and its surroundings in its current role as an ancillary building to The Field House dwelling was acknowledged in the debate at the last meeting. The Committee also acknowledged that the re-use of this domestic outbuilding, which is of permanent and substantial construction, would not be inappropriate development under paragraph 90 of the National Planning Policy Framework which relates to development in the Green Belt. The external alterations involving the enclosure of a covered patio area under the existing roof

and the additional rooflights were judged to be in character with the existing building. No objections were raised to the proposed access alterations and it was accepted that the proposal would not be detrimental to neighbour amenity. The Committee's concern about 'sustainability' related solely to the location of the building within the Green Belt.

3.2 The outbuilding itself is adjacent to a group of nine existing dwellings on Beamish Lane and approximately 415m from the current eastern extent of the Albrighton Development Boundary. The proposed allocation of housing land within the SAMDev Final Plan reduces the distance to the new proposed village development boundary to some 300 metres. The road over which access to the building would be gained, while mostly single tracked, is a loop road off the Kingswood Road serving only some five dwellings and two farms and, being lightly trafficked, is not unsuitable for use by pedestrians and cyclists. There is a footpath along Kingswood Road from its junction with the lane, into Albrighton. The distance into the services available within Albrighton is within the walking distances set out in the Institution of Highways and Transportation (IHT) document, Providing for Journeys on Foot (2000), which suggests the preferred maximum walking distance to common facilities is 1.2km and up to 2km for commuting or walking to school. The advice previously set out in PPG13 Transport also stated "walking is the most common mode of travel at the local level and offers the greatest potential to replace short car trips, particularly under 2km". (The closest group of shops being a 10 minute walk from the site with the cross roads at the centre of the settlement some 1.2km from the application site). The site therefore is in close proximity to Albrighton and, on the basis of the above factors, Officers consider that there is no evidence which could be produced to justify the assertion that it would be an unsustainable location for a single dwelling conversion, particularly as residential conversion schemes are permitted in more remote rural locations to secure the reuse of buildings in accordance with NPPF and Core Strategy policy. The designation of the land as Green Belt is not a factor to which any weight can be attributed in assessing whether a location is sustainable.

#### 4.0 CONCLUSION

4.1 The site is sustainable location for the conversion of a building to a dwelling in the context of housing supply. Officers are strongly of the view that the reason for refusal proposed at the last meeting, that this is not a sustainable location for a residential conversion, could not be sustained at appeal, for the reasons explained in paragraph 3.2 above. While the age of the building means that it does not meet the normal 'heritage asset' requirement for the conversion of buildings to independent permanent residential use, it is regarded as unsuitable for alternative uses listed in Core Strategy policy CS5. Additionally, the re-use of the existing building would not be inappropriate development in the Green Belt and would have no greater impact on the attributes of the surrounding Green Belt countryside than the current use of the building. The conversion of this existing swimming pool building to a single residential property set in a generous sized plot with existing suitable vehicular access, would not detract from the visual amenity or character of the surrounding environment, nor unduly harm the amenities of neighbouring residential properties. It is considered that there are no material planning reasons that would justify a refusal of this proposal.

## 5.0 Risk Assessment and Opportunities Appraisal

### 5.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- ② 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.
- ② 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.

### 5.2 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.

### 5.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## 6.0 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.

## 7. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:  
CS5 Countryside and Green Belt  
CS6 Sustainable Design and Development Principles  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
S3 Green Belt  
D6 Access and parking

SPD on Type and Affordability of Housing  
Shropshire Five Year Housing Land Supply Statement - 1st September 2013 (Amended Version 20th September 2013)

### RELEVANT PLANNING HISTORY:

11/03904/FUL – Alterations to existing vehicular access (onto High House Lane) to include erection of 2m high gates/piers and 1m boundary wall. Granted 1<sup>st</sup> February 2012.

BR/APP/LDCE/04/0728 – Erection of a detached outbuilding to provide a swimming pool and changing facilities for purposes solely incidental to the enjoyment of the adjacent dwelling. Permitted Development 31<sup>st</sup> August 2004.

BR/99/0474 – Erection of extensions. Granted 11<sup>th</sup> August 1999.

BR/98/0594 – Erection of a front porch, single storey side extension with pitched roof, single storey rear extension and conservatory. Granted 6<sup>th</sup> October 1998.

BR/98/0265 – Erection of a detached four car garage to replace existing garage buildings. Granted 1<sup>st</sup> June 1998.

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

Planning Statement dated February 2014

Transport Assessment dated October 2013

FBC Manby (Agent) Letter dated 4<sup>th</sup> April 2014

FBC Manby (Agent) Letter dated 7<sup>th</sup> May 2014

**Cabinet Member (Portfolio Holder)**

Cllr M. Price

**Local Member**

Cllr Malcolm Pate

**Appendices**

APPENDIX 1 – Conditions

APPENDIX 2 – Report to 19<sup>th</sup> August 2014 South Planning Committee Meeting.

## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

#### **CONDITION THAT REQUIRES APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. No development approved by this permission shall commence until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:

- Means of enclosure
- Hard surfacing materials

Reason: To ensure the provision of amenity afforded by appropriate landscape design.

#### **CONDITION THAT REQUIRES WORK TO BE CARRIED OUT PRIOR TO OCCUPATION**

4. Before the dwelling is first occupied the access onto High House Lane shall be altered in accordance with the details set out in the Highway Assessment by G.D. Acton, dated October 2013, in respect of access to land at rear of Field House, Beamish Lane, Albrighton.

Reason: To improve visibility at the access, in the interests of highway safety.

#### **CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

5. The external materials shall match those of the existing building and there shall be no variation.

Reason: To ensure that the works harmonise with the existing development.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or

without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- extension to the dwelling
- free standing building within the curtilage of the dwelling
- addition or alteration to the roof
- erection of a porch
- hard surfacing
- container for the storage of oil
- any windows or dormer windows

Reason: To enable the Local Planning Authority to control the development and so safeguard the character and visual amenities of the area, and to ensure that adequate private open space is retained within the curtilage of the building.

### **Informatives**

1. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
2. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. If your application has been submitted electronically to the Council you can view the relevant plans online at [www.shropshire.gov.uk](http://www.shropshire.gov.uk). Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.
4. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
5. In determining the application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:  
National Planning Policy Framework

Shropshire Core Strategy and 'Saved' policies  
CS5 Countryside and Green Belt



CS6 Sustainable Design and Development Principles

CS11 Type and Affordability of Housing

CS17 Environmental Networks

S3 Green Belt

D6 Access and parking

SPD on Type and Affordability of Housing

Shropshire Five Year Housing Land Supply Statement - 1st September 2013 (Amended  
Version 20th September 2013)

6. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.