

AGENDA ITEM



Committee and date
Southern Planning Committee
25th June 2024

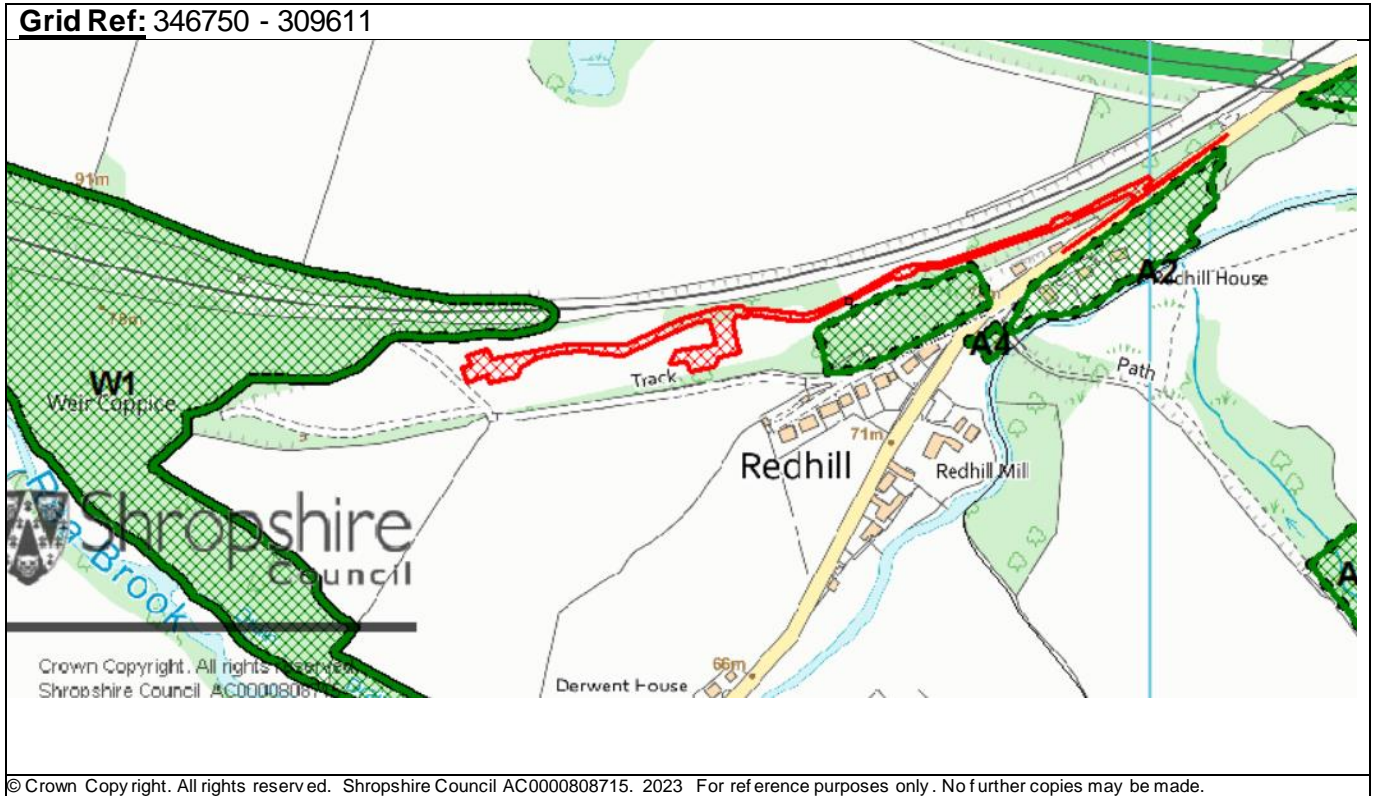
Development Management Report

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

Summary of Application

Application Number: 24/01248/FUL	Parish:	Longden
Proposal: Proposed construction of two dwellings		
Site Address: Proposed Development Land At Redhill Shrewsbury Shropshire		
Applicant: Mr Jack And John Gwilliam		
Case Officer: Alison Tichford	email: alison.tichford@shropshire.gov.uk	

Grid Ref: 346750 - 309611



Recommendation:- Refuse

Recommended reason for refusal

1. The proposed site for 2 new dwellings lies outside any development boundary, is not an infill site and is not within the community cluster settlement of Hook-a-Gate. The proposed site is therefore not a suitable location for the proposed open market development, having regard to the development strategy for the area. Moreover, the proposed development would not comply with the type of development specified in Policy S16.2 (xi) of the Longden Parish Plan, and although the guideline figure for the Cluster is not a ceiling, the exception allowed by Policy MD3 for additional sites outside development boundaries in the event of the guideline figures not being met, is not applicable. Consequently, the proposed development would conflict with the aspirations of the Longden Parish Plan as well as with the housing strategy contained in Policies CS1, CS4, CS5 and CS11 and SAMDev Policies MD1, MD3, MD7A and S16.2(xi).

2. The proposal does not benefit from the exception set out at NPPF paragraph 84e as the site is not considered to be "isolated" within the terms of the NPPF and as interpreted in appeal decisions.

3. The proposed dwellings do not meet the high bar of being outstanding or innovative within s134(b) of the NPPF and would in any case reduce the open undeveloped and attractive quality of the land in open countryside contrary to the aims of the NPPF, and local policies CS5, CS6, CS17, MD2 and MD7A. Neither is the land considered to be previously developed as any remains of previous use are now blended into the landscape. There are no other material considerations (as detailed at 6.2 above) of sufficient weight as to outweigh the general strategy of constraining new residential development within the countryside as detailed in Policies CS1, CS4, CS5 and CS11 and SAMDev Policies MD1, MD3, MD7A and S16.2(xi)

REPORT

1.0 THE PROPOSAL

1.1 The application proposes the construction of two 3 storey flat-roofed custom build dwellings under NPPF para 84e, together with a new vehicular and pedestrian access from the public highway and 7 new vehicle parking spaces.

- 1.2 An outline application (15/01152/OUT) for 16 houses at the site was refused and upheld at appeal.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposed red lined area of appx 3982 sqm, lies within an area of land owned by the applicant extending to an area of 79, 231sq.m. The site was used previously as a welding site for railway purposes but almost all visible evidence of previous use was removed 40 years ago, and the land has since lain vacant and now has a rather special “undiscovered” quality where nature has reclaimed the land and which yet serves local amenity users who are currently able to walk through, although the land is private.
- 2.2 The site itself is a long flat area located between a railway line at a similar elevation to the immediate north and an embankment of 3-5m higher land to the south. Boundaries to the wider land within the applicant’s ownership are generally well vegetated by mostly deciduous tree and scrub belts approximately 6-12m in height. The Shrewsbury to Welshpool railway line to the north is separated from the site in places by a galvanised steel palisade fence. The embankment to the south is covered in tree and scrub cover and is approximately 5m high to the south of the proposed dwelling to the east, although descending gradually to meet the site’s western boundary at broadly the same level as the rest of the site. There is a gateway to this southwest corner which connects with a separate access track running eastwards to the south of the embankment and which connects to Redhill Drive which lies to the south.
- 2.3 There is woodland to the west and agricultural fields to the north and south as well as east of the Longden Road, with existing residential dwellings to the immediate south below on Redhill Drive. The A5, a main transport link with moderate to high traffic flow runs approximately. 100m north of the site.
- 2.4 The proposed new access is north of the existing access to Redhill Drive and will require cutting through the existing hedged embankment.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have provided comments in support of the application and the Chair of Committee, and the Development Manager have considered that committee determination is appropriate in this case.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 SC Flood and Water Management seek a pre commencement condition with regards to the provision of drainage details for surface and foul water drainage.

- 4.1.2 SC Archaeology – indicated that they have no comments to make with regard to this application.
- 4.1.3 SC Affordable Housing provided comments querying the lack of amenity space included within the red lined area – if the site area measures 0.5ha or greater then it will trigger an affordable housing contribution in accordance with CS11 and guidance within the Type and Affordability of Housing SPD.
- 4.1.4 SC Conservation have indicated they have no comments to make but do reference the need for a formal design review panel for applications under 84 (e).
- 4.1.5 SC Environmental Protection seek a condition ensuring the noise mitigation measures detailed in the submitted noise assessment are implemented in full. They also seek conditions requiring further investigation of the contamination on site as well as a mine gas risk assessment.
- 4.1.6 Landscape consultees recommend an impartial design panel review be undertaken as previously proposed to consider whether the design passes the high bar required by 84(e). It otherwise concludes that predicted adverse effects are localised and that the development adequately complies with SC policies on landscape subject to a condition with regard to hard and soft landscaping.
- 4.1.7 SC Ecology consultees require the biodiversity net gain of 11.72% on-site and offsite within the blue line to be secured via a s106 agreement for 30-year monitoring. They also proposed conditions
- 4.1.8 SC Highways have no objection to the proposed works subject to conditions to ensure visibility, access prior to other operations, gradient and restriction to single access
- 4.1.9 SC Rights of Way have no objection and welcome the addition of a permissive footpath although note it could be withdrawn from public use at any time and propose a Creation agreement instead so that the route can be recorded as a public footpath and added to the definitive map of public rights of way.
- 4.1.10 SC Trees have no objection subject to conditions requiring a full tree protection plan and arboricultural method statement to ensure all trees are protected and that access can be gained through the RPAs of trees 48-51 as well as a tree planting and maintenance scheme.
- 4.2 Public Comments**
- 4.2.1 Longden Parish Council have made comments in support of the application following assurances from the applicant that a maximum of 2 houses will be developed on this site and that the access track will be positioned as close as possible to the railway embankment and away from the southern embankment to reduce risk of rock fall onto the existing dwelling. It requires written confirmation to be made to the LPA on these points and recommends they be conditioned as part of any planning consent. The applicant has provided a response to the PC requests

- 4.2.2 5 comments of support have been received from members of the public with comments as follows:
- Scheme will turn site into a local asset rather than an eyesore
 - Will enhance the locality with the addition of a right of way for pedestrians
 - The low housing density will ensure the site will remain largely open as now
 - The access will be safe and keep extra traffic off Redhill Drive
 - Applicant has connections to Hook-a-gate.
 - Applicant has no obligation to make payments to Parish Council or Affordable Housing but is prepared to do so
 - Application does not crowd the site
 - Application allows access where required
 - Application has architectural and ecological merit

- 4.2.3 1 comment of objection has been received from a member of the public.
- The 2015 application was refused on grounds of road safety nothing has changed. The legal limit is 60mph and many drivers do drive at this speed regardless of the applicants' survey.
 - Water pressure is already below standard and will reduce further with additional properties
 - Many non-locals drive in to walk their dogs using Redhill Drive as access – would need boundary fence to be re-erected to prevent this in future.
 - Seems to be unlikely that 2 huge prestigious houses should be built next to a railway line with no real outlook – seems likely to be a precursor to further attempts to build even more properties.
 - The £20k inducement for use in the parish is disturbing and requires investigation if this has any influence on the outcome.

5.0 THE MAIN ISSUES

5.1 Principle of development

- NPPF para 84(e)
- Fit with Housing Strategy

Any material considerations outweighing the statutory priority afforded to the local development plan?

- Outstanding or Innovative Design
- Previously Developed Land
- Permissive Path
- Voluntary affordable housing contribution
- Voluntary contribution to Longden Parish Council
- Biodiversity Net Gain
- Environmental Health/Amenity

- Environmental Sustainability
- Educational visits to wider site
- Other
- Balance of Additional Material Considerations

Other Matters

- Drainage
- Trees
- Residential Amenity
- Highways
- Parish Council comments

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1a NPPF para 84(e)

6.1a(i) The application form and design and access statement propose the construction of 2 dwellings and specifies that the application is made under NPPF paragraph 84e.

6.1a(ii) NPPF para 84e is clear that planning decisions should avoid the development of isolated homes in the countryside unless certain circumstances apply, one of which is that the design is of exceptional quality, truly outstanding, reflecting the highest standards in architecture and would help to raise standards of design more generally in rural areas while also significantly enhancing its immediate setting, and being sensitive to the defining characteristics of the local area.

6.1a(iii) However, officers are of the view that para 84e is not relevant to this application. The meaning of the word 'isolated' was the subject of the 'Braintree' judgments (Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] EWHC 2743 (Admin) of 15 November 2017, and subsequently in the Court of Appeal judgment of 28 March 2018) where it was held that the word should be given its ordinary objective meaning of 'far away from other places, buildings or people; remote'. The later case of Bramshill v SSHCLG (2021) confirms that Braintree should be followed with regard to para 79 (now amended to 84 in the revisions to the NPPF of December 2023) and requires the decision maker to consider whether the development would be physically isolated in the sense of being isolated from a settlement and confirms that the question of what is a settlement and whether the development would be isolated from a settlement are both matters of planning judgment for the decision-maker on the facts of the particular case.

6.1a(iv) Pre-application advice was provided with regard to the site to the effect that the site was not considered to be either functionally or physically "isolated" or separate or remote from a settlement. Redhill is a small hamlet of approximately 15 dwellings as shown on current and historic mapping and as described within the applicant's LVA, situated to the north of the Rea Brook which divides it from Hook-a-Gate approximately 275m further south. Hook-a-Gate is currently part of

a community cluster, to the northwest of Bayston Hill, and to the south of Nobold and Shrewsbury. The A5 bypass runs to the northeast of the site and the Shrewsbury to Welshpool railway line runs to the northern boundary of the site. Dwellings are sited along Redhill Drive to the south of the site and then around the junction of Redhill Drive with the C classified road traversing between Shrewsbury and Pulverbatch.

- 6.1a(v) Hook-a-Gate has a public house and a children's nursery, but also relies on additional facilities at Longden, 2 miles to the south and is not part of any cluster within the emerging local plan where it will instead be considered as open countryside.
- 6.1a(vi) The applicant's planning statement indicates at 6.8 that the development cannot be said to be isolated or sporadic in the terms meant by the NPPF. (The sustainability argument made here is considered further below with regard to housing strategy).
- 6.1a(vii) There is also a question mark as to whether para. 84e, which was designed perhaps primarily to encourage outstanding examples of individual architecture, would be relevant. where the development proposed is instead of 2 rather similarly designed dwellings.
- 6.1a(viii) The proposal does not therefore benefit from the exception set out at paragraph 84e as the site is not considered to be "isolated" within the terms of the NPPF and as interpreted in appeal decisions.
- 6.1a(ix) Pre-app advice was also provided that even if the site had met the requirement to be isolated, the proposed development would also not fall within 80e in that the design was not considered to be of exceptional quality or to significantly enhance its immediate setting. Para 80e applications should generally be subject to review by Design Panel West Midlands and while the pre-application suggested that the design would be put to the Design Panel, there is no evidence of such consultation, and the LPA has not been invited to participate in any Design Panel Review.
- 6.1.a(x) While there is no external party confirmation of exceptional quality the design of the development will be considered further below as a relevant additional material consideration.

6.1.b **Fit with Housing Strategy**

- 6.1.b(i) Paragraph 12 of the revised NPPF clearly states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, and 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. Para 11 of the revised Framework indicates that if the development plan is up to date, the presumption in favour of sustainable development is satisfied by the approval of development proposals that are in accord with it. Para 9 confirms that economic, social and environmental objectives should be delivered through the preparation and

implementation of plans and the application of the policies in this Framework; and that they are not criteria against which every decision can or should be judged.

- 6.1.b(ii) The Council maintains a five-year supply of deliverable housing land, the latest figures being published on 9th March 2023, and the delivery of housing has not been below the housing requirement over the previous 3 years. All other policies of importance for determining any application are up to date.
- 6.1.b(iii) SC 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.b(iv) Hook-a-Gate is currently part of a Community Cluster Settlement (as described within policy CS4) with a housing guideline of approximately 5 additional dwellings over the period to 2026, to be delivered through infill development and conversions of buildings on suitable sites within the villages, with a preference for lower cost 2–3-bedroom properties. The Longden Parish Plan 2017-2022 Plan also advises that new housing should be limited to small scale local needs housing, that dwellings should have no more than 3 bedrooms, and should be within existing village boundaries and in keeping with their surroundings.
- 6.1.b(v) In this case, the proposed site lies instead in the small hamlet of Redhill, outside of Hook-a-Gate, with village signs and speed restriction signs for Hook-a-Gate to the south lying appx. 300m south of the proposed site. The Inspector to the 2016 appeal on this site held that the development of the site would "represent significant encroachment into the surrounding countryside in an elevated area above the natural settlement limits of Hook-a-Gate and would harm the character and appearance of the countryside on the edge of Shrewsbury." Redhill is a separate small community, without services, apparent on heritage mapping, and falling within countryside in policy terms. There is no inconsistency in finding that a site is not isolated yet is nonetheless not suitable for development for reasons of accessibility to services and rural character. (APP/U1105/W/19/3242773 Land to the East of Goldsmiths Lane, All Saints, Devon, EX13 7LU).
- 6.1.b(vi) The supporting text to Policy CS4 makes it clear at paragraph 4.69 that development within Community Clusters will be within the villages, or on land that has been specifically allocated for development and that windfall development adjoining the village is not acceptable.
- 6.1.b(vii) Targets for housing in the cluster under Policy S16.2.(xi) have been exceeded and there is no pressing reason to invoke policy MD3 to bring forward sites outside of the designated settlements for residential development.
- 6.1.b(viii) Officers also note the Council's emerging Local Plan (2016-38) which is currently under review with the Planning Inspectorate and where, (with Parish Council support highlighted within the Longden Development Statement), Hook-a-Gate will no longer form part of a community cluster settlement and where no

opportunity to develop the site for housing has been considered appropriate and included within the emerging Plan.

- 6.1.b(ix) CS5 indicates that new development in the countryside (i.e., on sites anywhere outside the settlements named in policy as suitable for housing development) will be strictly controlled in accordance with the NPPF but may exceptionally be permitted on appropriate sites which maintain and enhance countryside vitality and character if they improve the sustainability of rural communities by bringing local economic and community benefits. CS5 provides a non-exhaustive list of potential appropriate development which includes affordable housing to meet a local need and dwellings to house essential countryside workers but does not include open market housing.
- 6.1.b(x) 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.b(xi) Furthermore, MD7a states that new open market housing will be strictly controlled outside of the designated areas highlighted through the Core Strategy's 'Strategic Approach' with only exception site dwellings, rural worker dwellings and residential conversions to meet evidenced local housing needs indicated as potential permissible development.
- 6.1.b(xii) Therefore, the proposed site lies outside any development boundary, is not an infill site and is not within the settlement of Hook-a-Gate. The proposed site is therefore not a suitable location for the proposed open market development, having regard to the development strategy for the area. Moreover, the proposed development would not comply with the type of development specified in Policy S16.2 (xi) of the Longden Parish Plan, and although the guideline figure for the Cluster is not a ceiling, the exception allowed by Policy MD3 for additional sites outside development boundaries in the event of the guideline figures not being met, is not applicable. Consequently, the proposed development would conflict with the aspirations of the Longden Parish Plan as well as with the housing strategy contained in Policies CS1, CS4, CS5 and CS11 and SAMDev Policies MD1, MD3, MD7A and S16.2(xi).
- 6.2 Any material considerations outweighing the statutory priority afforded to the local development plan?**
- 6.2.1 Although the proposal does not benefit from the exception set out at paragraphs 84(e) of the Framework, and the location places the proposal as being contrary to the Development Plan and national policies of restraint on new dwellings in the countryside, section 38(6) of the Planning and Compulsory Purchase Act 2004, provides that material considerations may have the potential to indicate a decision otherwise than in accordance with the Development Plan.
- 6.2.2 **Outstanding or Innovative Design, NPPF para 134(b)**
- 6.2.2(i) While the application site is not considered as qualifying as an isolated location (with reference to Braintree and subsequent appeal cases) for the purposes of

paragraph 80(e), the works may be considered instead against NPPF para 134(b) which requires significant weight to be given to outstanding or innovative designs, so long as they fit in with the overall form and layout of their surroundings (somewhat similar to the requirement that paragraph 80e development is sensitive to the surrounding characteristics of the local area) - still a high bar to reach in design and in terms of respecting context. (Mendip 17/05/2019 DCS No 200-008-465)

- 6.2.2(ii) Building 1 will have a gross internal area of 794sq.m including a ground floor, 4 bay garage and workshop area as well as multi-level garden areas incorporated into the design of the building itself totalling 548sqm. It will have a height of 10m, with an additional 0.7 roof mounted solar array. The building will be clad in buff sandstone rainscreen accented with contrasting areas of extruded aluminium. Plans show a principal bedroom suite to the second floor with dressing room and bathroom and three further bedrooms with bathrooms to the ground floor. Interior accommodation includes a cinema and various plant/tech rooms. Roof areas include rooflights and raised planting beds for trees as well as terrace areas with frameless glass balustrading to the perimeter and biodiverse areas. Amenity seating is planned to the outdoor terrace areas to the first and second floor, with the solar array occupying most of the top roof area to the second floor.
- 6.2.2(iii) Building 2 will have a gross internal area of 733sq.m including an integral ground floor 3 bay garage and workshop area, and roof gardens of 447sq.m. It will have a height of 10.97m plus the roof mounted solar array at an additional 0.7m. It will be clad in red sandstone rainscreen, again with the aluminium contrasting areas. Interior accommodation and roof design is functionally similar to building 1.
- 6.2.2(iv) The amenity areas included within the site area are roof gardens, and then the driveways leading from the access to the dwellings. The DAS suggests that a minimal footprint approach has been adopted to minimise impact on the large areas of open mosaic habitat identified within the larger site, although the scale of the dwellings does necessarily still involve a significant footprint, and it is also true that the closely drawn red line and lack of standard garden areas also limits the site area such that no affordable housing contribution is due. The agent has confirmed that surface and foul water drainage will be feasible within the red lined site area, and it would be important to confirm this with a pre commencement condition requiring further detail of the drainage strategy for the site.
- 6.2.2(v) The DAS details that the buildings are designed to a “folded linear” plan over 3 storeys with “canted” floor plates. While the flat roofs do reduce massing and visual impact the top roofs still stand at 10m plus with solar panels quite prominently placed atop, and even if planting to lower roofs offer some potential to blend with the surrounding landscape to mitigate the bulk of the sandstone structures and the supporting columns to the top floor accommodation, the scale of the buildings is such that they do not respond well to the pattern and

- grain of the adjacent development along Redhill Drive nor do they assimilate well into their immediate setting.
- 6.2.2(vi) The DAS suggests that the sandstone cladding is a nod to Grinshill sandstone, but the material is not generally found in use in the immediate area of the site and there is no clear explanation how this choice or the aluminium cladding responds to the qualities of the site or how the colour palette chosen would blend into the landscape. Both dwellings include extensive areas of floor to ceiling glazing to enable views out over the countryside, but while set back under the roofs, these will also still tend to increase the visibility and prominence of the buildings when looking into the site, both from reflection in the daytime and from lighting at night. The height of the buildings may also allow sight from some viewpoints of residential paraphernalia to the second-floor terrace and garden areas, as well as to the solar panels on the roof, again, increasing the disruption offered by the new buildings to the rural landscape.
- 6.2.2(vii) Submitted additional perspective drawings show trailing plants to the sides of the buildings from the raised garden areas which may help to create vertical areas of biodiversity and to further the visual connectivity of the dwellings to the woodland to the rear, but it will be difficult to guarantee the success and maintenance of this planting. While the design introduces interest to the buildings by the off balancing of the different floor levels, the buildings remain large and bulky, and it's not clear that the proposed roof gardens and trailing plants will offer sufficient dependable softening or to ensure the buildings respond well to the special qualities of the site.
- 6.2.2(viii) A new access to the site will be cut through the hedged verge and a 2.5m wide compacted gravel road (with passing places) of 350m appx in length shall lead to building 1 and then a further 150m to building 2.
- 6.2.2(ix) The submitted landscape and visual assessment was based on plans indicating some earth sheltering to the dwellings but the current plans do not show any intention to enclose the external envelope with a thermally significant amount of soil. While the agent suggests that the LVA is based upon the proposed drawings as submitted, the LVA also indicates at 4.1.2 that the zone of theoretical visibility for the dwellings is based upon two 8m tall structures on the existing topography. The currently proposed buildings are significantly – 2-3m taller as indicated above, and with the addition of 0.7m high solar panels to the roof. Landscape consultees conclude this may increase the spatial extent of theoretical visibility, although the consultants to the applicant consider that any slight variation in the height of the buildings will not make much of a difference to the ZTV and are unlikely to affect the LVA conclusions.
- 6.2.2(x) The LVIA indicates a zone of theoretical visibility which includes areas on the upper parts of slopes to the south, and also to the north of the site, although there is screening vegetation around the site's boundary and within the wider landscape which mitigates some views for some parts of the year.
- 6.2.2(xi) The LVA concludes that the proposed development would likely result in a slight adverse effect on landscape within the site, specifically vegetation within and

along the boundaries of the site as well as a slight adverse visual effect for users of public rights of way to the south and southwest of the site.

- 6.2.2(xii) The site for the dwellings is at 82m AOD, and there is an embankment to the south of 85-87m AOD which will offer some screening in views although officer visit suggests that the tops of the buildings at their proposed heights, (which are intended to allow impressive views over open countryside as stated in the submitted DAS), may be more visible from some directions than suggested by the LVA, particularly from Hook-a-Gate and the Longden/Shrewsbury Road which runs through it and onto Redhill, where the height of the new built structures may be quite apparent as the trees to the boundary are less tightly packed - although the dwellings will appear set back from the existing dwellings already on elevated ground at Redhill Drive. The dwellings also seem likely to be prominent in views from the dwellings to the eastern end of Redhill Drive, where the embankment is lower and separation gap of the order of 60m between boundaries. While the dwellings are unlikely to be experienced as overbearing, they will alter quite significantly the nature of the outlook of these dwellings where the current openness above the embankment creates a more spacious feel.
- 6.2.2(xiii) The submitted planning statement suggests that with no sense of domestic containment around the buildings they will effectively emerge from the natural environment, rather than imposing upon it. However, it is not clear how achievable this open space will be once homeowners are resident – it seems likely that at least temporary domestic paraphernalia will appear in the areas around the buildings and that it would be difficult not to perceive the surrounding areas as garden – previous iterations of the development proposal appear to have included garden areas here. In any case the bulk and height of the proposed buildings ensures they do not nestle within this special elevated area but assert themselves upon it.
- 6.2.2(xiv) The submitted energy report suggests that 100% of predicted energy usage may be achievable with insulation and space and water heating via ground/air source heat pumps as well as the use of solar PV roof cells. However, the measures cannot be relied upon as being secured and in any case the technology proposed is not innovative or new and previous appeal decisions (for example Appeal Ref: APP/V2255/W/20/3261525 Land at the corner of Seasalter Road and Monkshill Road, Graveney, Kent) suggest that this would not be indicative of outstanding design, as the NPPF is seeking sustainable energy in all development.
- 6.2.2(xv) The planning statement does make a case that the overall design responds positively to, and integrates seamlessly with, the valued features of the site. However, while the assessment is noted and appreciated, the design has not had the benefit of external input from Design Panel West Midlands (despite initially being proposed by the agent and also recommended by conservation and landscape consultees) and it remains true that the site is not within an area considered suitable for housing and that the special quality of the site as part of the wider rural landscape for 40 years will be impacted to the detriment by the

introduction of two very large dwellings in this elevated position, with extensive glazing and residential activity and paraphernalia. Outstanding design within s134 has a very high bar just as s80e, (per, for example, Appeal Ref: APP/N2535/W/20/3259808 Land at Woodlands, North Kelsey Road, Caistor LN7 6HF) and officers are of the view that there is no evidence to support a finding that that bar has been reached in this application.

6.2.2(xvi) Therefore, on review of the submitted documents, and in the absence of any external design review panel evidence, while some consideration has been given to the design of the proposed dwellings, and the concern to provide sustainable energy is recognised, the proposed pair of dwellings do not meet the high bar of being outstanding or innovative and would reduce the open undeveloped and attractive quality of the land in open countryside. There is therefore no basis to conclude that the design merits of the proposal have sufficient weight so as to outweigh the general strategy of constraining new residential development within the countryside as detailed in Policies CS1, CS4, CS5 and CS11 and SAMDev Policies MD1, MD3, MD7A and S16.2(xi).

6.2.3 **Previously Developed Land.**

6.2.3(i) The applicant's planning statement also suggests at 7.2 that the site has brownfield characteristics, despite the 2016 Inspector's finding that the site has undergone natural re-colonisation and could not therefore be regarded as previously developed land.

6..2.3(ii) NPPF para 124c indicates that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. However, brownfield/previously developed land is defined in the NPPF glossary and excludes land that was previously developed but where the remains of the permanent structure or fixed surface structures have blended into the landscape.

6.2.3(iii) Officers hold to the previous appeal inspector's view that the land would not qualify as previously developed land as any remains of the previous use are now blended into the landscape. The Inspector had available to him the preliminary contamination risk assessment provided at that time but highlighted that the appearance of the site is now one of a clearance between woodlands. The NPPF definition does not indicate that contamination is relevant to the decision. The applicants describe the land as formerly railway land, where it was a flash butt welding and rail storage depot but have confirmed the site is currently vacant. Railway storage and welding use appears to have finished by 1986 at the latest.

6.2.3(iv) While a desk survey has suggested contamination may be present, the land currently supports a rich wildlife and is enjoyed by local amenity users and there is no existing harm arising from the land. Neither is the land considered to be suitable for development within housing policy and while adjacent a settlement on one boundary, it cannot be considered as falling within the settlement so as to satisfy the NPPF definition. While potential contamination would need to be further investigated should intrusive development be proposed, it is not pertinent

to the current undeveloped status of the land, and the land is not considered to constitute previously development land within the definition provided by the NPPF and in accordance with the view of the inspector to the previous appeal on the site.

6.2.4 **Permissive Path**

6.2.4(i) NPPF para 104 indicates that planning decisions should protect and enhance public rights of way including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks.

6.2.4(ii) The application proposes a new permissive path to be provided within or adjacent to the site and which is shown on drawing 22.019 04E. The right of way is proposed to the south of the site to connect Redhill drive with an established PROW to the west, leading to Hanwood Bank.

6.2.4(iii) Rights of Way consultees have pointed out that the permissive path would be subject to withdrawal by the owner of the land at any time. They have suggested that the applicant considers instead entering into a Creation agreement so that the route can be added to the Definitive map of Public Rights of Way and recorded as a public footpath.

6.2.4(iv) This would require action by the applicant directly with the Mapping Team. A new permanent right of way may offer some benefit to residents of Redhill Drive and might be afforded moderate weight if secured, and if reasonable to secure by condition or obligation (considered further below).

6.2.5 **Voluntary affordable housing contribution**

6.2.5(i) There is no requirement to provide an affordable housing contribution for the proposed site area where the site area proposed within red line is drawn closely around the dwellings and access route but where the agent indicates that drainage is feasible within this red line and where amenity areas are indicated to be to the roof terraces and gardens rather than within the surrounding land. Affordable housing consultees have expressed some surprise at the restricted site area within this large plot.

6.2.5(ii) Instead, the applicant has offered a voluntary contribution of £20,000 towards affordable housing. Consultees do not consider the sum substantial but in any case, do not consider it appropriate as a material consideration to support the application – the proposed works are considered contrary to policy and there is no requirement for an affordable housing contribution based on site area and therefore the proposed contribution is not fairly and reasonably related to the proposed development.

6.2.6 **Voluntary contribution to Longden Parish Council**

6.2.6(i) The application form indicates that the proposed dwellings are to be self-build/custom build.

6.2.6(ii) The applicants are Mr Jack & John Gwilliam, and the owner of the land is Redstart Construction Ltd, a company led by Mr John Gwilliam.

6.2.6(iii) A CIL payment of appx £208000 would be payable on the development were the dwellings not exempt as self-build, with appx. £31,166 payable to the Parish Council.

- 6.2.6(iv) The £20000 offered to Longden Parish Council has been indicated to be for the provision of dog waste bins, a bus shelter in Longden, and to improve local footpaths. These are all highlighted within the Longden 2017-2022 action plan. The decision as to which to prioritise would be at the discretion of the Parish Council, and with the funding secured by unilateral undertaking with the Parish Council.
- 6.2.6(v) One local objector to the works has noted that the offer raises concerns and officers are of the view that in this case and in the absence of any further information, the proposed contribution to the Parish Council for the purposes outlined cannot be considered as a material consideration to support the application as it would not meet the legal tests set out in *Newbury DC v Sec of State for the Environment (1981)* - where the contribution must be for a planning purpose and not for any ulterior one, must be fairly and reasonably related to the proposed development and must not be so unreasonable that no reasonable planning authority could have imposed it.
- 6.2.7 **Biodiversity Net Gain**
- 6.2.7(i) The application form confirms that there are protected and priority species as well as important habitat on the development site but stated that the general Biodiversity Gain Condition would not apply as the small sites' exemption applied at the date of application.
- 6.2.7(ii) The applicants have nevertheless indicated that they wish the BNG to be taken into account in the planning balance.
- 6.2.7(iii) Ecology consultees are satisfied with the BNG proposed to offset the proposed development although requiring it to be secured by a S106 agreement. This would be necessary to make the development acceptable and would therefore be reasonable to require prior to any approval.
- 6.2.7(iv) However, officers are of the view that it does not add significant weight to support the proposed works, where the site already has biodiversity merit which might alter but not necessarily reduce with maturity of the site and where there is as yet unknown potential impact which might arise from contaminated land investigations. (See below)
- 6.2.8 **Environmental Health/Amenity**
- 6.2.8(i) The submitted preliminary environmental site assessment indicates that the site can be classified as moderate to high risk in terms of contamination and the risks to the identified receptors (e.g., human health and buildings) following any redevelopment is considered to be moderate to high. There is no stated risk to the site as currently used.
- 6.2.8(ii) This classification is due to the historic on-site land uses with the potential to contaminate the soils at the site. These include a railway and a rail welding depot. Additionally, a number of historic off-site land uses have been identified in the surrounding area with the potential to contaminate the soils at the site. These include historic landfill sites, old quarries, a railway (disused) and a tank. Associated contaminants include hydrocarbons, polychlorinated biphenyls (PCBs), polyaromatic hydrocarbons (PAHs), volatile organic compounds

(VOCs), herbicides, heavy metals, ash, sulphates and ground gases (carbon dioxide and methane)

6.2.8(iii) Consultees require further investigation as to potential contamination and with regards to mine risk prior to any development and the initial assessment also recommends investigation of ground conditions/stability. Both investigative and any required remedial works are likely to disrupt the existing biodiversity where existing conditions without development support a thriving biodiversity of county value.

6.2.8(iv) The requirement for further investigation of contamination etc should any development be approved therefore also reduces the weight to be given to any potential BNG.

6.2.9 **Environmental sustainability**

6.2.9(i) NPPF para 108c requires that development proposal should consider opportunities to promote walking, cycling and public transport use, although para 109 does recognise that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. There are no pedestrian ways adjacent the main routes away from the site, no lighting and a 60mph speed limit. While there are some public rights of way nearby to Bayston Hill and Hanwood Bank, they would be unlikely to be used at night or in inclement weather. The routes available are not conducive to safe journeys on foot or by cycle and the dwellings will be located at sufficient distance from local facilities, services and employment opportunities such that most travel is likely to involve the use of private motor vehicle. The applicants have offered no specific reason or need for locating the dwelling in the countryside that would justify a lack of viable transport alternatives to the private car. The site is therefore not in a sustainable location as required by local housing strategy and the provisions of the NPPF and this is a significant obstacle to the proposed works.

6.2.10 **Educational visits to the site**

6.2.10(i) The applicant's agent has suggested that there may be scope for local schools to make educational visits to the site once developed. It seems unlikely that such a visit would be easily achievable or of high priority for local schools nor that such a visit would provide any significant educational benefits in light of previous considerations of the merits of the proposed scheme. No further information has been provided as to how these trips would be organised or guaranteed into the future. Little weight can be attached to this possibility without further confirmation as to the curriculum proposed and mechanism for provision.

6.2.11 **Other**

6.2.11(i) The applicants have indicated that they would accept a personal occupancy condition and argue that they have local connections to the parish. While local connection is important to the question of exception site dwellings, there is no apparent shortage of substantial homes, or land holdings in appropriate locations, within the parish and the connection does not carry weight to counter the conflict with the approved housing strategy. Neither would it be acceptable

to condition the personal occupancy as the local connection would not contribute to making the proposed development acceptable.

- 6.2.11(ii) The development of any dwelling will offer minor economic benefits which have the potential to contribute locally both during construction and afterwards. While large, these dwellings remain as homes for 2 families, and it is not considered that any economic benefits arising from such development would be so significant as to carry anything other than minimum weight in support of the proposed works.

6.2.12 **Balance of additional Material Considerations**

- 6.2.12(i) While some consideration has been given to the design of the proposed dwellings, and the concern to provide sustainable energy is recognised, the proposed pair of dwellings do not meet the high bar of being outstanding or innovative and would reduce the open undeveloped and attractive quality of the land in open countryside.
- 6.2.12(ii) The proposed site would not qualify as previously developed land within the NPPF definition as any remains of the previous use are now blended into the landscape and the land is adjacent rather than within the settlement of Redhill. Use of the land does not therefore add any weight in support of the proposed works on the basis of NPPF para. 124c or local policy.
- 6.2.12(iii) The proposed BNG might carry moderate weight in the planning balance but is countered by the potential for considerable impact on the biodiversity of the site from intrusive investigation and potential remedial action in response to possible contamination and in the absence of definitive evidence that the biodiversity of the site will be detrimentally impacted if development does not go ahead.
- 6.2.12(iv) Economic benefits will be minor and unexceptional beyond any other residential development. While the social benefit of a permissive path does not carry weight, a secured definitive right of way would contribute moderate weight in support of the application but has not been offered by the applicant in response to consultees comments. While the applicant indicates a local connection to the area, the provision of large open market dwellings at this location contrary to the housing strategy would provide a personal rather than social benefit. There is a lack of information as to the utility of and mechanism to ensure educational visits and these cannot add weight in support of the application. There will be environmental costs as the proposed site for the dwellings is not considered a sustainable site for housing and most journeys to access services and employment would be required to be made by private motor vehicle.
- 6.2.12(v) Insufficient information is available with regard to the affordable housing and parish council financial contributions offered by the applicants and as to how they are relevant to the acceptability of the development proposed to be able to consider them as material considerations within the planning balance.
- 6.2.12(vi) On balance therefore, officers consider there is no basis to conclude that there are any material considerations of sufficient weight as to outweigh the general strategy of constraining new residential development within the countryside as

detailed in Policies CS1, CS4, CS5 and CS11 and SAMDev Policies MD1, MD3, MD7A and S16.2(xi)

6.3 Other Matters

6.3.1 Drainage

6.3.1(i) A sustainable drainage system is proposed. A Biodisk package treatment plant with soakaways is proposed for foul sewage but neither foul nor surface water plans are currently shown within the red lined site area. Further detail would be required by pre commencement condition to satisfy consultees and to ensure that provision can be within the approved site area

6.3.2 Trees

6.3.2(i) The application form indicates that there are existing trees and hedges on the proposed development site which might influence the development and are important as part of the local landscape character.

6.3.2(ii) SC Trees have no objection subject to conditions requiring a full tree protection plan and arboricultural method statement to ensure all trees are protected and that access can be gained through the RPAs of trees 48-51. as well as a tree planting and maintenance scheme.

6.3.3 Residential Amenity

6.3.3(i) NPPF para 174 requires that planning decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution or land instability.

6.3.3(ii) NPPF para 185 requires that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects on pollution on health, living conditions and the natural environment.

6.3.3(iii) A noise impact assessment has been submitted with the application and considers the impact of traffic and railway noise on the proposed development.

6.3.3(iv) The site lies appx 35m south of the railway line to the north. The noise assessment advises that the railway has frequent use with 59 trains over a typical day and 14 over a typical night.

6.3.3(v) The noise assessment indicates that A5 traffic noise was just audible at the monitoring position.

6.3.3(vi) SC Environmental Protection seek a condition ensuring the noise mitigation measures detailed in the submitted noise assessment are implemented in full. They also seek conditions requiring further investigation of the contamination on site as well as a mine gas risk assessment (as detailed further above at 6.2.8.

6.3.3(vii) The proposed barrier against noise from the railway and road is not indicated on the plans and would fall outside the red lined area if implemented. Further information would be required to confirm as to why the barrier would not be required to secure the amenity of the new dwellings.

6.3.3(viii) Building 1 will lie appx 60m northwest of the boundary of 1B Redhill Drive. The building is set at such a distance from the boundary that although elevated above 1B the new dwelling is unlikely to be experienced as overbearing or to have any impact on privacy.

6.3.4 **Highways**

6.3.4(i) NPPF para 114 requires that appropriate opportunities to promote sustainable transport modes can be taken up given the type of development and its location, and that safe and suitable access to the site can be achieved for all other users.

6.3.4(ii) Para 115 indicates that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

6.3.4(iii) While the previous appeal included a refusal of the development on highway grounds, this application will involve less traffic movements and has been supported by a highway report which has undertaken a more detailed assessment of the adjoining County Road including the measurement of the speed of passing vehicles along the frontage of the site. The analysis of these measurements is in line with current guidance and considered to be fair and reasonable with the results representative of earlier recorded speeds, with the splays provided within the highway and land ownership of the applicant.

6.3.4(iv) Highways consultees have no objections to the proposed works on highway safety grounds subject to conditions to secure a single access, visibility splays, access prior to other operations and gradient of access.

6.3.5 **Parish Council comments**

6.3.5(i) The Parish Council has supported the application subject to written confirmation from the applicant to support statements made to the Parish Council with regard to amount of development and the revision of the driveway.

6.3.5(ii) Such confirmation has not been received. However, any approval of the proposed development would be for 2 dwellings within the red lined site area and any alteration would require a new application. Likewise, any further development within the blue lined area within the applicant's ownership would require a further application which would be considered on its own merits.

6.3.5(iii) The applicant's agent has submitted additional information with regard to the location of the driveway. Any alteration would require reassessment by arboricultural and biodiversity consultants and consultees and may not be acceptable to Network Rail. However, further information has been provided in support of the likely stability of the route chosen and the limited potential for disruption to neighbouring properties.

7.0 **CONCLUSION**

7.1 The proposed site for 2 new dwellings lies outside any development boundary, is not an infill site and is not within the community cluster settlement of Hook-a-Gate. The proposed site is therefore not a suitable location for the proposed open market development, having regard to the development strategy for the

area. Moreover, the proposed development would not comply with the type of development specified in Policy S16.2 (xi) of the Longden Parish Plan, and although the guideline figure for the Cluster is not a ceiling, the exception allowed by Policy MD3 for additional sites outside development boundaries in the event of the guideline figures not being met, is not applicable.

Consequently, the proposed development would conflict with the aspirations of the Longden Parish Plan as well as with the housing strategy contained in Policies CS1, CS4, CS5 and CS11 and SAMDev Policies MD1, MD3, MD7A and S16.2(xi).

7.2 The proposal does not benefit from the exception set out at NPPF paragraph 84e as the site is not considered to be “isolated” within the terms of the NPPF and as interpreted in appeal decisions. Neither is the land considered to be previously developed as any remains of previous use are now blended into the landscape.

7.3 On balance, officers consider the proposed dwellings do not meet the high bar of being outstanding or innovative within s134(b) of the NPPF and would in any case reduce the open undeveloped and attractive quality of the land in open countryside contrary to the aims of the NPPF, and local policies CS5, CS6, CS17, MD2 and MD7A. Neither is the land considered to be previously developed as any remains of previous use are now blended into the landscape. There are no other material considerations (as detailed at 6.2 above) of sufficient weight as to outweigh the general strategy of constraining new residential development within the countryside as detailed in Policies CS1, CS4, CS5 and CS11 and SAMDev Policies MD1, MD3, MD7A and S16.2(xi)

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.

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS1 - Strategic Approach

CS4 - Community Hubs and Community Clusters

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS18 - Sustainable Water Management

CS17 - Environmental Networks

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD7A - Managing Housing Development in the Countryside

Settlement: S16 - Shrewsbury

RELEVANT PLANNING HISTORY:

15/01152/OUT Outline application (all matters reserved) for residential development, convenience store and public open space REFUSE 3rd May 2016

PREAPP/23/00303 Proposed x2 dwellings (Set out in Paragraph 80 of the NPPF) PREUDV 7th June 2023

Appeal

16/02483/REF Outline application (all matters reserved) for residential development, convenience store and public open space DISMIS 1st December 2016

11. Additional Information

AGENDA ITEM

Southern Planning Committee - 23rd July 2024

Proposed Development Land
At

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SAYYLTTDGP700>

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 - Conditions

AGENDA ITEM

Southern Planning Committee - 23rd July 2024

Proposed Development Land
At

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