



Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Monday, 3 February 2020

Committee:
Southern Planning Committee

Date: Tuesday, 11 February 2020
Time: 2.00 pm
Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Director of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

David Evans (Chairman)
David Turner (Vice-Chair)
Andy Boddington
Simon Harris
Nick Hignett
Richard Huffer
Cecilia Motley
Tony Parsons
Madge Shingleton
Robert Tindall
Tina Woodward

Substitute Members of the Committee

Roger Evans
Nigel Hartin
Christian Lea
Elliott Lynch
Dan Morris
Kevin Pardy
William Parr
Kevin Turley
Claire Wild
Leslie Winwood
Michael Wood

Your Committee Officer is:

Tim Ward Committee Officer
Tel: 01743 257713
Email: tim.ward@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes

To confirm the minutes of the South Planning Committee meeting held on 17 December 2019

Contact Linda Jeavons (01743) 257716.

3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is no later than 2.00 pm on Friday 7 February 2020.

4 Disclosable Pecuniary Interests

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

5 Longville Arms Longville in the Dale, Much Wenlock, Shropshire, TF13 6DT 18/03355/FUL (Pages 1 - 26)

Change of use of former public house to residential (re-submission of 17/01687/FUL)

6 Land To The East Of Garridge Close Albrighton Shropshire 19/02785/REM (Pages 27 - 40)

Approval of reserved matters (appearance, landscaping, layout, scale) pursuant to 14/03657/OUT for the erection of three residential properties

7 Proposed Development Land At Former Bus Depot Minsterley Shrewsbury Shropshire 19/03734/OUT (Pages 41 - 62)

Outline application (access for consideration) for mixed use development of residential and business units

8 Boars Head Hotel Church Street Bishops Castle SY9 5AE 19/03996/FUL (Pages 63 - 84)

Conversion of and alterations to public house/inn to form two dwellings (including demolition of rear extensions); conversion of and alterations to holiday accommodation block to form one dwelling (including demolition of rear extension); erection of one new dwelling

9 Boars Head Hotel Church Street Bishops Castle SY9 5AE 19/03997/LBC (Pages 85 - 98)

Conversion of and alterations to public house/inn to form two dwellings (including demolition of rear extensions); conversion of and alterations to holiday accommodation

block to form one dwelling (including demolition of rear extension)

10 Proposed Dwelling, Bromlow, Minsterley Shropshire 19/04680/OUT (Pages 99 - 114)

Outline application for the erection of 1 No dwelling and garage to include access

11 Schedule of Appeals and Appeal Decisions (Pages 115 - 182)

12 Exclusion of Press and Public

To consider a resolution under Section 100 (A) of the Local Government Act 1972 that the proceedings in relation to the following items shall not be conducted in public on the grounds that they involve the likely disclosure of exempt information as defined by the provisions of Schedule 12A of the Act.

13 Planning Enforcement Quarterly Report (Pages 183 - 190)

14 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00pm on Tuesday, 10 March 2020, in the Shrewsbury Room, Shirehall.

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Development Management Report

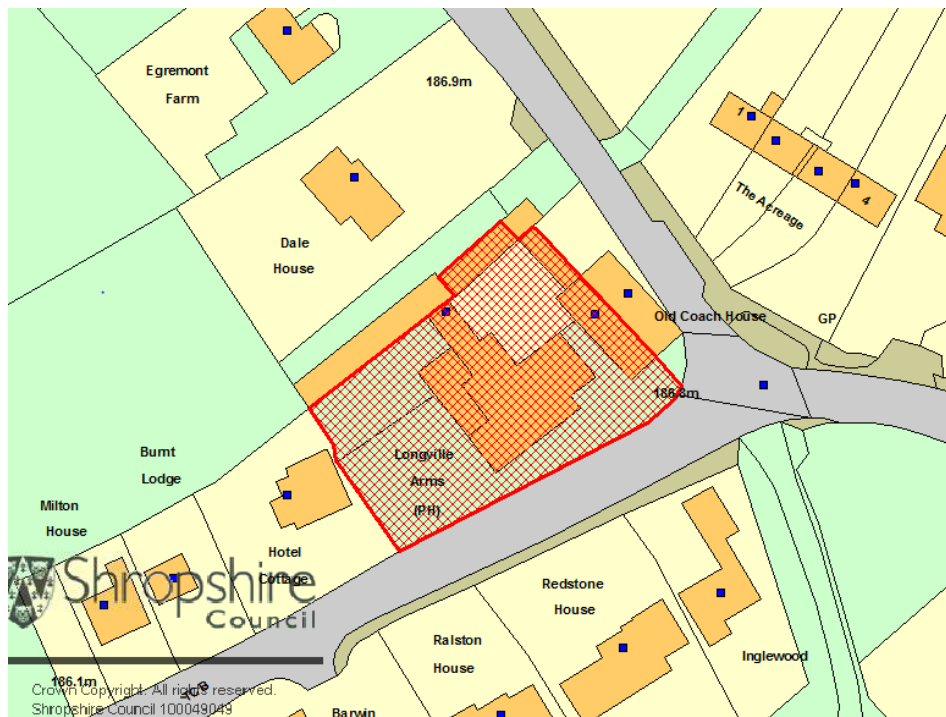
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 18/03355/FUL	Parish:	Rushbury
Proposal: Change of use of former public house to residential (re-submission of 17/01687/FUL)		
Site Address: Longville Arms Longville in the Dale, Much Wenlock, Shropshire, TF13 6DT		
Applicant: Longville Arms Limited		
Case Officer: Andrew Sierakowski	email: planning.southern@shropshire.gov.uk	

Grid Ref: 353870 - 293767



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Recommendation: Refusal

Recommended Reason for Refusal

The proposal would result in the permanent loss of a local community facility to the detriment of the social and economic vitality and quality of life of the community in Longville in the Dale.

Whilst it is acknowledged that the applicant made a trading loss in all of the years that it operated the Longville Arms and that this may be indicative of the fact that the Longville Arms, like many rural pubs is not likely to be viably maintained solely on the basis of reliance on the trade of the small locally resident population in and around Longville in the Dale, this does not itself demonstrate that it cannot still operate as a viable business by developing a wider market appeal. There has been no attempt to demonstrate why this would not work.

In addition, no independent valuation has been provided and inadequate and inconsistent information has been submitted to demonstrate that the purchase price of the Longville Arms being requested by the applicant is realistic or justified when it is being argued that the building is beyond economic repair and the business not viable. There is in addition no evidence to indicate that the applicant has sought to test the market through any amendment or reduction in the asking price over the four years that Longville Arms has been on the market.

For this reason the applicant has failed to demonstrate or justify the claim that there is no evidence of market demand for retaining the Longville Arms in its existing use as a pub or an alternative economic use and therefore that allowing the proposed change of use is justified.

For this reason, the application cannot be considered to have demonstrated that allowing the proposed change of use would maintain and enhance countryside vitality and improve the sustainability of Longville in the Dale as a rural community in accordance with Core Strategy Policy CS5. It also does not justify approval of the application contrary to Core Strategy Policy CS8 and Policy CS15 and paragraphs 83 and 92 of the NPPF which seek to ensure the retention and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs, and are retained for the benefit of the community.

REPORT

1.0 THE PROPOSAL

- 1.1 This is an application for the change of use of the existing public house to a single residential dwelling at the Longville Arms in Longville in the Dale. The application is a resubmission application following the refusal of a similar earlier application, Ref. 17/01687/FUL which was determined on the 8th August 2017.
- 1.2 The application was submitted concurrently with two simultaneous applications for Lawful Development Certificates for the continued residential use of Coach House Cottage (Application Ref. 18/04502/CPE) and The Old Coach House (Application Ref. 18/04504/CPE), which together make up the converted former coach house immediately adjacent to the east side of the main building at the Longville Arms. These previously provided holiday accommodation for use in conjunction with the pub. Both Applications were refused on 16th December 2019.

- 1.3 The application states that no external alterations are proposed, although there is a plan included which is described as indicative, to demonstrate how the external areas around the building would be utilised for private amenity space and for car parking.
- 1.4 The application further states that it has been submitted in response to the refusal of Planning Application Ref. 17/01687/FUL and in particular to the first reason for refusal which was that the proposal would result in the permanent loss of a local service to the detriment of the social and economic vitality and quality of life of the community.
- 1.5 The application therefore focuses on seeking to overcome this reason for refusal and sets out to argue that the change of use of the pub to residential use would not result in a loss of an important community facility to the detriment of the social and economic vitality and quality of life to the local community.
- 1.6 The application is accompanied by a detailed Planning Statement and Market Demand Report and other supporting evidence, including a number of appeal decisions. These in summary make the following points (which include the key conclusions of the Market Demand Report):
- That the Longville Arms was previously privately owned but was sold in 2008 to Enterprises Inns Group PLC, with the previous owners retaining the lease until 2010. It was then transferred at no cost to the subsequent leasee, who was not able to sustain the business, which failed. As a result, it closed approximately twelve months later;
 - That Enterprise Inns Group PLC subsequently sold the Longville Arms to the current applicant in December 2011 for 50 per cent less than the amount that they purchased it for in 2008;
 - That the current applicant bought the Longville Arms from Enterprise Inns Group PLC and reopened and operated it from 2012 to 2016 when it was closed in December 2016. It operated under the name of the Longville Arms Ltd and ceased trading in February 2017;
 - That the accounts show a trading loss for each year of between 2012 and 2017, despite the employment of a professional public house manager and chefs;
 - That the current owner has spent approximately £70,000 on upgrading and refurbishing the premises including the kitchen, boilers, fittings and other improvements;
 - That a further £70,000 will need to be spent on essential maintenance and repair to bring the building up to standard for continued use as either business or domestic premises;
 - That as a consequence, Shropshire Council's Rating Officer has issued a zero rating for the property on the basis that it was uneconomic to repair;
 - That there was a low volume of footfall into the premises with irregular patterns of customer numbers, resulting in very low take-up of the food element and insufficient custom from residents within walking distance;
 - That the Longville Arms was put on the market in December 2015 with a

- reputable agent who specialises in the sale of public houses. The pub alone was marketed with a purchase price of £395,000 and with the Coach House Cottage and the Old Coach House, for a purchase price of £495,00;
- That particulars were requested by 573 parties, but that there was only one viewing (by a party interested in its use other than as a pub) and no offers were made. The Longville Arms remains unsold and remains on the market with Freehold asking price of £495,000;
 - That there is no evidence that the performance of the business over the 5-6 years up to the closure of the Longville Arms arose from poor management;
 - That the Longville Arms was designated as an Asset of Community Value (ACV) on 3 July 2017 as a result of a Community Right to Bid being put together by the Parish Council, the Rushbury and Cardington Young Farmers' Club and approximately 80 local residents;
 - That the applicant subsequently notified the Council that they wished to dispose of the property (and that it had been marketed since December 2015) and as a result a six week moratorium period came into force during which the local community could register their intention to bid. This period expired in January 2018 with the Council confirming that no intentions to bid were received;
 - That the Longville Arms was subsequently subject to a 'Protected Period' during which the applicant is able to sell the property without restriction from the Community Right to Bid Legislation. This period expired in April 2019;
 - That the applicant subsequently appealed against the designation of the building as an ACV at a tribunal. The decision issued by Shropshire Council upheld the listing of the Longville Arms building as an ACV but accepted that the Coach House (including Coach House Cottage and The Old Coach House) should be removed from the listing;
 - That more generally, across the country, public houses in rural areas and small villages largely depend on the passing trade, which does not provide regular and consistent footfall and which results in significant wastage of food which is unsold. In addition, there is a tendency for customers to arrive by car resulting in minimal spend on alcoholic drinks. It is therefore necessary for such premises to become successful destination public houses in order to compete with public houses located in larger settlements, which can benefit from higher volume passing trade or link into other nearby attractions. This is often difficult to achieve, requiring landlords to offer a large variety of offers and promotions which results in a narrow profit margin and which in turn often incentivises single event trips with little long-term customer loyalty and few regular return visits;
 - That there is no evidence that trading conditions for the business will improve and that it is highly likely that a future business would fail;
 - That professional public houses owners/tenants do not as a result view the Longville Arms as a viable prospect;
 - That there is no evidence of market demand for alternative commercial uses; and
 - That the property will attract significant demand for change of use to residential development/conversion.

2.0 SITE LOCATION/DESCRIPTION

2.1 The Longville Arms together with Coach House Cottage, The Old Coach House and number of other outbuildings make up the Longville Arms, with all the buildings included in the application. The pub is located on the north side of the B4371 in the centre of Longville in the Dale. It is surrounded on all four sides by residential properties.

2.2 The main building is a substantial traditional painted stone built three-storey three bay structure with a tiled roof, most likely dating back to 18th or 19th centuries and was originally known as the Station House Public House. It includes managers accommodation and a number of modern extensions to the four elevations. The area to the front of the pub is entirely a tarmac surfaced car park which includes the area around Coach House Cottage and The Old Coach House with a larger car parking area to the west of the main pub building. There is a tarmac surfaced entrance between the pub and the west side of Coach House Cottage and The Old Coach House which leads into a service yard to the rear of the pub, where there is a courtyard with single storey sheds, and outbuildings, some of which have been converted and previously used as tourist accommodation, albeit that the pub is understood to have closed in December 2016. Coach House Cottage and The Old Coach House together (the former coach house) comprise a traditional stone built one and half storey structure with a tile roof, which has been internally modernised to create two separate units of residential accommodation. It is understood that they were previously used as holiday accommodation. It is attached to a similarly sized brick-built dwelling along its east side, which appears to a converted barn type building and is understood to be in separate ownership unrelated to the pub.

2.3 The recent ownership history is as follows:

- From 2003 to 2008 the pub was privately owned and managed (by J& A Livingstone);
- In 2008 the pub was sold to Enterprise Inns Group PLC, but then leased back to the previous owner until 2010, when the lease was transferred at no cost to another private individual (Mr E O'Farrell) who managed the pub for approximately twelve months;
- In 2011 the pub was sold by Enterprise Inns Group PLC to the current applicant, Longville Arms Limited;
- From 2012 to late 2016 the pub was owned and operated by the current applicant, but closed at the end 2016;
- Since 2016, the pub has remained closed.

2.4 The Longville Arms including Coach House Cottage and The Old Coach House have a fairly extensive planning history which includes the following planning applications:

- SS/1981/443/P Conversion of outbuildings into 3 self-contained residential units
 - Not determined. Superseded 13th August 1981 by Planning Application Ref.

SS/1981/464/P;

- SS/1981/464/P Conversion of part of an outbuilding to a residential unit - Approved 18th September 1981;
- SS/1985/373/P Change of Use of the Coach House to workshops for Light Industrial Use - Approved on 20th August 1985;
- SS/6092/P - Conversion of existing outbuilding to provide bedroom accommodation for letting – Approved 12 October 1995;
- SS/1987/666/P Conversion of barn to workshop, store and shop for agricultural electrician - Approved 26th October 1987;
- SS/1/00/11058/F Erection of Extension to Public House/Hotel - Approved 29th June 2000;
- SS/1/00/11060/F Conversion of a barn to 2 no. additional letting bedrooms and games room - Approved 30th August 2000;
- SS/1/05/17285/F Conversion of outbuilding to provide a holiday let unit - Approved 12th September 2005; and
- 17/01687/FUL Change of Use of former Public House to Residential - Refused 8 August 2017.

2.5 Longville in the Dale, which is located in Rushbury Civil Parish, the application states, contains approximately 50 residential dwellings with a population of approximately 160. It describes the village as semi-rural with agricultural buildings located in or close to the village and the Wilderhope Youth Hostel as being located in the countryside to the south of the village.

2.6 The village is located on the B4371 between Much Wenlock (6.9 miles to the east) and Church Stretton (6.2 miles to the west), with the largest nearby town being Telford (16 miles to the north east). The Longville Arms benefits from a prominent position in the centre of village. Public transport is provided with a bus stop opposite the Longville Arms, although the majority of travel is undertaken by car (aside from walking and cycling tourists). Longville itself has relatively few facilities with shopping, leisure and key public services being located in other nearby towns and villages. The application documents describe the type and value of residential houses in and around Longville in the Dale as consisting of medium to large family houses which are above the national average in size and the locality as being reasonably affluent with above average disposable incomes. The nearest open public houses to Longville in the Dale are the Plough Inn at Wall under Heywood (2.0 mile south west) and The Royal Oak near Cardington (2.2 miles north west). Other public houses in the nearby areas such as the Wenlock Edge (2.5 miles north east) and the Plume of Feathers at Harley (6.0 miles north east), have closed.

2.7 Longville in the Dale is located within the Shropshire Hills Area of Outstanding Natural Beauty (AONB).

3.0 REASON FOR COMMITTEE DETERMINATION OF THE APPLICATION

3.1 The application is complex and in accordance with the Council's approved Scheme

of Delegation, the view of the Planning Services Manager in consultation with the Chairman and Vice Chairman is that it should be determined by the Southern Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

- 4.1 Rushbury Parish Council: State that they strongly object to the application. They state that the Longville Arms was a thriving pub and community hub whilst in the hands of previous landlords, but that after it was taken over it lost a lot of business and that the Parish Council and other organisations which met there, had to find alternative premises for meetings.
- 4.2 They additionally state; that the previous owner, Enterprise Inns Group PLC sought to reduce their rural estate, and put the Longville Arms up for sale to reduce their borrowings; that the building was registered as an Asset of Community Value in 2017; and that the objections the Parish Council submitted in 2017 are still relevant.
- 4.3 They further state that the Longville Arms is missed as a community meeting place and that clubs must travel outside the area to access similar facility's as those offered by the Longville Arms, and some groups no longer meet. They also state that its loss has affected local tourism, and that cyclists and walkers, who are often seen picnicking in the Longville Arms car park, have told local people that they were shocked that the pub had closed.
- 4.4 They state that there would be significant support for the pub if it reopened and was well run for local people and tourists.
- 4.5 The Parish Council's comments on Planning Application Ref. 17/01687/FUL were as follows:

Rushbury Parish Council objects to this application. We have taken into account in our considerations views expressed by parishioners during the public consultation session at a very well attended extraordinary meeting of the Council, as well as comments submitted to Shropshire Council.

We are unconvinced by some of the evidence presented in the application which contains material, the relevance of which is unclear but omits important information. Of particular concern are the 'two residential properties within the curtilage'. Our understanding is that these are converted outbuildings permission for which was granted on condition that they are used as holiday accommodation in association with the public house and are as such, restricted in their use. It is not specifically stated that the application seeks a change of use of these properties to open market residential accommodation, but we would object to this on the grounds that they provide a valuable element of the local tourist economy.

The central premise of the application is that the Longville Arms is no longer a viable business and that there is no prospect of it becoming such. The sweeping statement is

made that it 'has suffered a trading loss each of the last ten years that it has traded' while evidence is only presented for the period since 2012. We heard contrary evidence that in the past it has been well patronised and former licensees were able to make it an economic success. We also heard evidence that the customer experience offered since 2012 was of a poor quality and it is possible to interpret the decline as a downward spiral of poor service leading to fewer customer numbers and hence the lack of welcoming ambience that is expected in a licensed establishment. We are left with the impression that the business would have been successful if a different management ethos had been adopted. No evidence is presented that the holiday accommodation was marketed intensively which could have generated extra income. Additional facilities such as the children's play area have been neglected.

While the increase in business rates is noted there is no evidence that any relief has been sought or indeed any other assistance with promoting and sustaining the business.

We dispute the statement that the premises have been marketed 'at a price that realistically reflects the value of the property considering all its component elements'. The 'two separate residential properties' seem to have been valued as open market residential housing while we believe that they are holiday accommodation and hence have a lower value. Evidence is presented that the main building is in need of extensive renovation. There seems to be little or no goodwill left in the business. We are not convinced that these factors have been taken into account in the valuation for marketing which we understand is well in excess of the purchase price. Additionally we note that the property has not been advertised intensively locally and that the market has not been tested by offering it at auction.

The relevance of most of the section on planning policy is lost to us as it does not appear to apply to the application. Similarly we see no relevance in the references to the development of the Wenlock Edge, the application will not of itself generate any funds and there can be no guarantee that any funds generated by the sale of the premises would be applied to this project. We refute the assertion that the Wenlock Edge Inn will provide equivalent or enhanced provision in lieu of the Longville Arms. It is currently closed, there is no immediate prospect of it reopening and it is too far from Longville. Locals and visitors in the area want a pub that they are able to walk to. It is perhaps optimistic or even arrogant to assume the those whose local facility has been closed would choose to patronize an establishment owned by those responsible for the closure.

The Longville Arms is geographically and socially at the centre of the Longville community. It is the only public house within a mile of the centre of Longville and the only facility for social gatherings within the hamlet. It has good facilities including a function room and has been used not only by local individuals but by diverse groups. Notably these include Rushbury and Cardington Young Farmer's Club, darts, domino and air rifle teams, Brockton Gun Club, the NFU and the Masonic Fellowship. Local facilities for social events are vital to combat rural isolation. We regard the Longville Arms as vital to social fabric of Longville and this is a major reason for our objection.

We are also concerned about the effect on the vital tourist industry within the AONB. There are a number of B&Bs, caravan and camping sites within the locality and their customers seek a local facility to provide drink and meals that has in the past been

provided by the Longville. A good local pub is an important part of the offer in attracting customers to tourist facilities. The pubs themselves offer employment opportunities particularly part-time work for teenagers which is an introduction to the world of work in a relatively sheltered environment. The effect on the local economy and hence employment prospects is a further reason for our objection.

We understand that a local organisation and local individuals wish to nominate the Longville Arms for listing as an Asset of Community Value. We will support them in this and a councillor has been nominated and agreed to act as the liaison person with the group.

Public Comments

4.6 In addition to the comments of the Parish Council, there have been 36 third party representations submitted by 33 individuals. Of these representations 35 offer objections to the application and one support. The representations objecting in summary make the following points:

- That the application refers to number of appeals and makes irrelevant comparisons with the circumstances in those appeal cases, for example in quoting one in which there was only one letter from local residents objecting to the loss of the public house and another where the residents' main objection was to the building of the five dwellings rather than the loss of the pub. A better comparison it is stated would be the application to turn The Fox Inn in Ryton, Shropshire into a dwelling in 1999 due to the pub not being viable, which it is stated is still in business almost 20 years later;
- From a previous landlord of the Longville Arms, that the pub had been an asset to the community, that it was an important venue for people to meet, and that it was a viable business that was well supported by the local community;
- That the proposed change of use will take away an important asset for the local community and that maintaining it as a public house, if managed well, would provide an important community asset;
- That the central premise of the application remains that the Longville Arms is no longer a viable business and that there is no prospect of it becoming so, whereas in the past it has been well patronised and former licensees were able to make it an economic success. It has only been since 2012 that the customer service offered has been of a poor quality and it is possible to interpret the decline as a downward spiral of poor service leading to fewer customer numbers and hence the lack of welcoming ambience that is expected in a licensed establishment;
- That the holiday accommodation which could have generated extra income was not marketed intensively and additional facilities such as the children's play area have also been neglected;
- That the premises have not been marketed at a price that realistically reflects the value of the property. Whilst the main building is in need of extensive renovation, the property has not been advertised intensively locally and the market has not been tested by offering it at auction;
- That the Longville Arms is geographically and was socially at the centre of the

Longville community. It is the only public house within a mile of the centre of the village and the only facility for social gatherings. It has good facilities including a function room and has been used not only by local individuals but by diverse groups. These include Rushbury and Cardington Young Farmer's Club, darts, domino and air rifle teams, Brockton Gun Club, the NFU and the Masonic Fellowship;

- That local facilities for social events are vital to combat rural isolation and that the Longville Arms as vital to the social fabric of Longville;
- Expressing concern about the effect on the tourism within the AONB, with there being a number of B&Bs, caravan and camping sites within the locality with customers that seek a local facility to provide drink and meals, which in the past were provided by the Longville Arms and that a good local pub is an important part of the offer in attracting customers to tourist facilities;
- That pubs themselves offer employment opportunities particularly part-time work, so that their loss has an effect on the local economy and employment prospects;
- That the Longville Arms is currently listed as an Asset of Community Value. It would therefore be preferable that a buyer be found who will reopen it as a public house;
- That insufficient time has been given since the ACV listing to test the market. Longville needs a public house much more that it needs another domestic residence;
- That in the right hands the pub would be a thriving business which would benefit tourism and the local economy and be an important hub for the community;
- That approving this application would leave the doors open to potential investment opportunists, thinking that they can purchase any country pub, apply for change of use and turn into other ventures;
- That there are more suitable sites for residential development in Longville and the loss of pub would be a major loss to the community;
- That somebody else should be given the opportunity to run the Longville Arms well, so that it can thrive again;
- That being able to meet and chat in a local pub is a huge prevention of social isolation for a rural and farming community;
- That tourism is the second source of income, second only to Agriculture, for Shropshire, and it is essential that well run, thriving pubs are kept open;
- That the Longville Arms was previously a successful business and with the right management team, skill set and business plan plus that required a lot of hard work. It could be a successful business again;
- That the Longville Arms was once a very busy and happy place to visit before the present owner drove everyone away;
- That the Longville Arms in the past was a busy and welcoming place of the community. This pub was a meeting place for all of the locals to go in and feel welcome. It has been a successful pub in the past;
- There are very few facilities for the rural community in Longville and what does exist should be protected;
- That the community's support for the pub is evidenced by securing its listing as an Asset of Community Value following the previous attempt to change the pub

into housing;

- That there are few pubs in the area which have full disabled access and a large function room which the Longville Arms has. With the right ownership the Longville Arms has every opportunity of being a very successful business again; and
- That the proposal includes six parking places which is excessive for one residence, suggesting that an alternative future use is proposed;

4.7 The one supporting representation makes the following points:

- That the closure of the Longville Arms and its conversion to residential use will have a minimal effect on people in the area;
- That times have changed, and the pub was being little used by the public under several owners, so that it is not a viable business for anyone to take on in the current climate; and
- That if the residents in the area thought it could work, they could have pooled together to make it a community pub but that there has been little interest and no opening offers have been made, not even under the valuation.

Technical Consultees

4.8 Shropshire Council Highways: Have advised that that the proposed development is unlikely to have any detrimental impact on the adjacent public highway network and therefore have no objection, subject to the development being constructed in accordance with the proposed layout drawing. They also advise the inclusion of an informative relating to any works on, within or abutting the public highway.

4.9 Shropshire Council Regulatory Services: Advise that there are records of there having historically been petrol storage tanks on the site and therefore that there is a source of potential contamination. If the application is approved, they therefore recommend that a condition be included on the consent requiring the submission of site investigation report, and if required a remediation strategy, and its subsequent implementation. The condition should also require the submission of a verification report once the remediation works are completed, to demonstrate that any contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990.

4.10 Shropshire Council SUDS: Advise the inclusion of an informative on sustainable drainage.

4.11 Shropshire Hill AONB Partnership: No comment received.

5.0 THE MAIN ISSUES

- 5.1 - **The Principle of the Development;**
- **The impact of the proposal on the AONB and the rural economy; and**

- **Other Issues.**

6.0 OFFICER APPRAISAL

6.1 The Principle of the Development

- 6.1.1 The primary issue raised by the application relates the acceptability of the development in principle, and in particular whether there is justification for approval of the application, resulting in the loss of one of the few community facilities in Longville in the Dale, the Longville Arms, by allowing its conversion to a residential property. In considering the issue of the principle of the development, there are several matters to be considered. These include: (i) the financial viability of continuing the existing pub business; (ii) the asset value/purchase price of the property which has implications for any Community Organisation or third party wanting to buy and take over the running of the pub either as a going business or for another alternative economic use; (iii) the registration of the pub as an Asset of Community Value (ACV) under the Localism Act 2011 and the implications for the continuing use of the property as a pub; (iv) whether there is a viable alternative economic use; and (v) the principle of allowing the conversion of the property to residential use.
- 6.1.2 There a number of key development plan policies and a number of relevant sections in the national planning policy set out in the National Planning Policy Framework (NPPF) (2019).
- 6.1.3 In terms of the overall development strategy in the county, Core Strategy Policy CS1 sets out the Strategic Approach, which is that Shropshire should flourish, accommodating investment and new development to contribute to meeting its needs and to make its settlements more sustainable. It identifies that in the rural areas of the county, these should become more sustainable through a “rural rebalance” approach, which outside Community Hubs and Community Clusters, is primarily concerned with ensuring economic diversification. In support of this objective Policy CS15, which is concerned with Town and Rural Centres, makes clear that the rebalancing of rural settlements will be supported by the protection and improvement of existing day to day services and facilities within Shropshire’s network of villages.
- 6.1.4 Longville in the Dale does not form part of any Community Hub or Community Cluster and is therefore to be treated as falling within the rural area of the county defined as countryside under Core Strategy Policy CS5 on the Countryside and Green Belt. In relation to the principle of the change of use of existing buildings to residential use, Policy CS5, and the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan, Policy MD7 on Managing Housing Development in the Countryside, seek to control new development in accordance with national planning policies protecting the countryside. The policy, whilst intended to facilitate the conversion of buildings that are heritage assets, states that this should not be at the expense of maintaining

vitality and sustainability. More explicitly Policy CS8 on Facilities, Services and Infrastructure Provision, in line with the objectives of Policy CS1 and Policy CS15, makes clear that existing facilities, services and amenities that contribute to the quality of life of residents and visitors will be protected. The supporting explanatory text makes clear that this objective is intended to protect against the threat of closure to, and loss of rural post offices, schools, pubs and village shops in the county.

- 6.1.5 This approach is consistent with advice set out in the NPPF which in Chapter 6 on “Supporting a Prosperous Rural Economy” states in paragraph 83 that planning policies and decisions should enable the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship. In addition Chapter 8 on “Promoting Healthy and Safe Communities”, in paragraph 92, sub-paragraphs (c) and (d) state that planning policies and decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs, and ensure that they are retained for the benefit of the community.
- 6.1.6 On the other hand, paragraph 118 states that planning policies and decisions should promote and support the development of under-utilised land and buildings.
- 6.1.7 The difficulty with the policies on the protection and retention of existing community assets and facilities is that they cannot be used to ensure that unviable facilities or services are maintained. They can only be used in the context of applications for changes of use and conversion of existing buildings to ensure that the potential continuing or future use of a building is not prejudiced or lost altogether. An unviable business cannot be forced to stay open and a closed business or facility cannot be forced to reopen. It is also not intended that the planning system should be used to prevent the development of new uses, where an existing or past use is no longer viable and cannot continue. What is clear however, is that the presumption of Core Strategy Policies CS5 and CS8 and also the NPPF, is that existing facilities and assets should be retained unless, it is clearly demonstrated that, this is no longer a viable option and that community and economic uses and uses which maintain vitality and sustainability and which contribute to the quality of life of residents and visitors should be considered first in preference to other types of use, including potentially residential development, which either do not or will not so obviously contribute to maintaining vitality and sustainability. Turning to each of the matters relevant to the consideration of the principle of the development, the Committee are advised as follows

The Financial Viability of Continuing the Existing Pub Business

- 6.1.8 The first issue is the question of whether the continuing operation of the Longville Arms is no longer a viable use. What the application has sought to do is demonstrate that the continuing use of the Longville Arms as a pub is not viable, (and that there is no other viable economic or community use).
- 6.1.9 The application does not include accounts or financial information directly from the applicant, although the Market Demand Report, which has been prepared by an

independent RICS qualified Chartered Surveyor, does include a summary of the trading accounts for the period that the Longville Arms has been owned by the applicant. The accounts are freely available on-line and confirm the figures quoted in the Market Demand Report. The figures show that there was a trading loss in the each of the financial years that the pub was operated by the applicant until its closure. It does not include any financial information relating to the period before the applicant took over the Longville Arms, and the report notes that *“Limited information is available to confirm the financial trading performance of the public house for the period preceding [the applicant’s] ownership...notably there are no supporting accounts”*.

6.1.10 No direct comparison is therefore possible between the trading history of the current applicant the previous owners and leaseholders, although the report also then states that whilst *“We cannot verify trading figures for the previous owners...it is [nevertheless] clear that one owner decided to sell the building and then subsequently the lease [and that] The next owner could not sustain the business and closure resulted”*, the clear implication being that the business even before the current applicant took over, was not viable. It concludes that there no reason to consider that the management of current applicant differed in any way that was significant.

6.1.11 The report goes on to provide an analysis of the reason why the business has not continued to be viable. Its states that:

“We have researched the businesses operating at the property to ascertain the reasons for business failures and ultimately the closure of the business. [It concludes that] The property location is small and the immediate population is too small to sustain a viable business at the property. Therefore, availability of passing trade and the ability of the business to attract customers from the wider locality and tourists was crucial but is further complicated by the level of competition from alternative public houses in the area and the recognized decline in the public house/night time economy nationally with significant rates of closures over the last 5 to 10 years”.

6.1.12 The report comments that:

“Longville Arms Ltd, the current owner of the property, injected a significant amount of capital following purchase to re-establish the public house. Appropriately skilled and experienced staff were employed to provide the business service to customers. Despite the capital investment and considerable efforts of the staff and owners over a sustained 5-year period the business was not sustainable and losses were incurred”.

Mr Murray (who is a Director of Longville Arms Ltd) is experienced in owning and running similar types of successful businesses. Evidence indicates an intention to run a profitable public house and the level of capital investment deployed and the employment of experienced staff is clear evidence of this.”

6.1.13 The report also refers to the closure of the Wenlock Edge public house it states that:

“This public house is also owned by Mr Murray/The Longville Arms Limited and it

closed in 2013 due to deteriorating trading conditions. The Wenlock Edge is located 3.8 miles away along the B4371 and the closure and resulting movement of customers to Longville Arms was expected to indirectly boost the trading performance of Longville Arms. Unfortunately, the closure made little difference which supports my view that trading conditions in general for public houses in the locality and region was declining”.

6.1.14 The overall conclusions of the Market Demand Reports are that:

“I have found no evidence the performance of the business over the last 5 to 6 years relates to poor management of the business. Whilst former customers may remember a busy public house many years ago there is no evidence that trading conditions for this property/business will improve and it is highly likely that future business will fail resulting in the property being vacant for prolonged period of time and the fabric and condition of the property will inevitably deteriorate leaving a prominent building adversely affecting the character of the village.

6.1.15 There are a number of points to note from the report. Firstly, there is no doubt that the trading accounts demonstrate that the Longville Arms made a net trading loss in each year it was operated by the applicant.

6.1.16 Second, there is no available evidence as to whether the pub previously operated with a trading profit or loss, although one of the third-party representations, as detailed above, which was submitted by a previous landlord states that they had been a “successful” landlord and that there was a “viable business”. When this was, and what the trading accounts were, is not known but is anecdotal evidence that the pub has at some point in the past operated with a trading profit. What is clear from the third-party comments, is that there is widely held view amongst local residents in Longville in the Dale that the Longville Arms has previously operated as a successful and welcoming pub and that it could do so again. There are both implicit and explicit comments to suggest anecdotally that the pub had ceased to be sufficiently welcoming and attractive place to make local residents want to use it any significant way, leading to a significant decline in trade from local residents, although this may have started even before the current applicant took over the management of the pub.

6.1.17 It is nevertheless a reasonable assumption that when the previous owner, Enterprises Inns Group PLC, which is the largest portfolio manager of pubs in the UK, with over 4,000 properties, bought the Longville Arms in October 2008, it did so, on the presumption that it could be operated with a view to making a trading profit. The fact that they subsequently sold the pub again three years later, may confirm, as the application argues that this did not turn out to be the case, but this is not necessarily so, with the comments from the Parish Council suggesting that sale was in fact driven by the need for Enterprise Inns Group PLC to reduce its level of borrowing. Equally one would have to assume that the current applicant bought the Longville Arms in late 2011 on the same basis, and indeed the Market Demand Report states this. What is also now widely recognised is that over the last ten years the viability of rural pubs has become increasingly marginal and many simply unviable, with a very significant numbers of closures of rural pubs right across the UK, including in rural Shropshire. Nationally, the Office for National Statistics figures indicate that the number of pubs in the UK declined from 50,000 in 2018 to 39,000 at

the end of 2018.

- 6.1.18 Furthermore, it is widely recognised that the population in rural areas are very often too small to viably maintain their pubs and that to survive it is necessary that they become a destination pub, offering high quality food and drink which can draw in visitors over a wider area or significant tourist trade. It is also recognised that this cannot be a solution for all rural pubs. The Market Demand Report as noted above, states that a village of the size on Longville in the Dale with a population of approximately 160, *“is too small to sustain a viable business at the property”*. It suggests that the availability of passing trade and the ability of the business to attract customers from the wider locality and tourists was crucial but that this too has been made more difficult by the level of competition from alternative public houses in the area. It is the case, that there have been examples of nearby pubs that have developed as destination pubs, and even some that have been taking over as community pubs. A notably nearby example is the Pheasant at Neenton, although there are also specific circumstances that have enabled the re-development of the pub there. The key relevant point is that the difficulties faced by rural pubs are now well known, that many have closed because they are no longer viable and that whether they can be kept open and developed, will depend on a number of circumstances, which is likely to include a management approach, the location and the market and whether passing trade can successfully draw in those looking for a high quality destination. Some of these factors, notably, an appropriate business strategy and good management, and the quality of the offering, which may be critical to success, go beyond the what may be considered to be material planning considerations and make it very difficult to assess whether a pub in one rural location may still be viable when another pub in another rural location may not be. What is also likely to be the case is that such an approach will not work for all pubs, and that overall there will be a reduction in the number of rural pubs.
- 6.1.19 This raises the question of whether there are any particular factors that favour or militate against the viable reopening of the Longville Arms. This is difficult to say with any certainty. Comparison with the Wenlock Edge as the other (currently closed) pub owned by the applicant and one of the closest neighbouring pubs, suggests that on the one hand that the location of the Wenlock Edge, because of its location on Wenlock Edge, maybe more likely to attract tourist trade, but is not located in a village. The Longville Arms on the other hand is located in a village and is relatively close to Wilderhope Manor and the youth hostel there. It is still in the AONB relatively close to Wenlock Edge, so still has potential to attract tourist trade, but also because of its location on the B4371, which is the main road between Much Wenlock and Church Stretton, is arguably in a much more accessible location, then many more remote rural pubs. It therefore enjoys a level accessibility that would lend itself to attracting passing trade and as a destination pub.
- 6.1.20 The conclusions on viability then are that the applicant was not able to make trading profit in any of the years that it operated the Longville Arms. This is not necessarily confirmation that the pub is no longer viable, but it is certainly indicative of the fact that the Longville Arms like many rural pubs is not likely to be viably maintained on the basis of reliance on the small locally resident population in and around Longville in the Dale. Whilst the application states that the applicant invested a not insignificant amount in the pub by way of maintenance and improvements, there is nothing to

suggest that this was done with a view to developing the Longville Arms as a high-quality destination pub. It appears from the comments of the Parish Council and the third-party representations, as anecdotal evidence, as well the information set out in the application itself, that the quality of the offering at the pub has resulted in significant proportion of the local residents choosing not to use it, although it is not possible to draw the conclusion that if this was not the case, that its viability would be restored. Equally, there is no evidence that developing the Longville Arms as a high-quality destination pub has been given any significant consideration and there has been no attempt to demonstrate why this would not work, when it is a successful model that has worked at some other pubs in rural Shropshire.

The Asset Value/Purchase Price of the Property

6.1.21 Moving on to the second issue of the asset value/purchase price of the Longville Arm, there is a suggestion in the comments from the Parish Council and third-party representations that the pub has been significantly over-valued in the asking price, the implication being that this has been a factor, possibly a significant factor, in why it has not sold. The price is important, because it may seriously affect the level of interest in buying the property whether it is a community organisation potentially seeking to take over and run the pub as an Asset of Community Value (ACV), or it a third party, looking to do so or develop an alternative economic use. Some local planning authorities have set strict tests in relation to the marketing of community facilities and the length of time that they have to be for sale before they will consider granting planning permission for a change of use. Policy CS8 is not quite so specific in its requirements, although it is not unreasonable that the Council should give consideration, as a material consideration, to the marketing and sale price of community facilities, and particularly pubs before determining applications for their change of use, and especially so given the objective of Core Strategy Policies CS8 and CS15 and the requirements of the NPPF. The primary consideration is that the purchase price being sought is an accurate and realistic reflection of the value of the property, and the concern may be that this has been deliberately set so high as to ensure that no bids come forward. This allows the applicant to argue that there is no interest and therefore that either there is no interest in taking over a pub as a viable going concern or that there is no viable alternative economic use. For any Community Organisation, especially in a community as small as Longville in the Dale, it may simply make submission of a bid impossible.

6.1.22 As set out above the pub, without Coach House Cottage and the Old Coach House was marketed on behalf the applicant with a purchase price of £395,000 and with them for a purchase price of £495,000. Whether this is realistic is difficult to tell as the sale price for rural pubs has a wide range of influencing factors, including the type and size of property, location, turnover, the trading loss/profit, the condition of the buildings etc. A search on-line (undertaken on 27th January 2020) shows that there are currently approximately 30 pubs or similar properties for sale in Shropshire, with prices varying from substantially less, to substantially more, than the purchase price at which the Longville Arms has been marketed (and continues to be). The original purchase price paid by the applicant has not been disclosed although the publicly available accounts for the first year (2013) after the applicant acquired the Longville Arms show the companies tangible assets as having been £324,826. It cannot be stated for certain that this reflects the price paid for the purchase of the

Longville Arms, by the applicant, but this is significantly less than the purchase price that has been sought when the Longville Arms was put up for sale by the applicant in 2015. It also the case that there some significant inconsistencies in the application. The Planning Application Statement states that the applicant spent £70,000- £80,000 on repair and maintenance of the pub during the period between its purchase in late 2011 and its closure at the end 2016, and that additional works to the value of £70,000 are also required. The latter it states has resulted in *“the Council’s Rating Officer concluding that the property is uneconomical to repair and thus issued a zero rating for the property”*. The Market Demand Report by contrasts states that:

“My inspection focusses on overall condition that would affect market value or saleability, but it was not a detailed building survey.

The property is aged and there is evidence of the effects of weathering and wear and tear to external surfaces and some roof tiles have slipped. However, I found no evidence of serious structural failure or disrepair.

The internal finishes are satisfactory, and I found no evidence of significant disrepair or damage that would prevent the property from being use as a public house.”

6.1.23 It should however be noted that it also states that:

“the timber joists supporting the ground floor (over the basement) has been subject to wood boring insect attack and requires treatment and also the fixed wiring and electrical installation has failed a test and requires significant remedial works”.

6.1.24 The information submitted is therefore not consistent in the conclusions about the condition of the building. There is no independent valuation included in the submitted copy of the Market Demand Report or with the application, and there is also nothing in the report to suggest that the work required is so significant as to affect the value of the property. On the other hand, if the building is beyond economic repair, as stated in the Planning Application Statement, then one would expect this to have had a significant impact on the valuation of the building as a pub. There is no evidence submitted with the application to indicate that this is the case. If the value of the quoted tangible assets of the Longville Arms Ltd in 2013 was £324,826 and this is a reflection of the purchase price, whilst at the same time the building was considered to be beyond economic repair, and the pub was not a viable business, then one would expect the application to include evidence to justify the purchase price being asked, and explain how the condition of the building and lack of viability have affected the price. There is no explanation of this in either Planning Application Statement of the Market Demand Report.

6.1.25 As an additional point it should also be noted that the Planning Application Statement states that Enterprise Inns Group PLC sold the Longville Arms for 50% less to the current applicant, than they purchased the property for three years early and that this demonstrates that:

“Enterprise Inns (a company with the largest portfolio of public houses in the UK, with a string track record of managing public houses) could not make the property work profitably”.

6.1.26 As set out above, it not necessarily the case that this conclusion can or should be drawn, and as the Parish Council comments suggest there may have been an altogether different rationale for the decision. The Statement does not state is what the applicant, has in turn sought to sell the Longville Arms for any additional discount over his original purchase price or indeed even that the listed purchase price in 2015 was less than he paid for it in 2011. As stated above there is no independent valuation included with the application.

6.1.27 In relation to the asset value/purchase price of the property, it must be concluded that the information submitted with the application is inconsistent and contradictory and does not adequately demonstrate that the purchase price requested by the applicant is justified or realistic. The concern expressed by the Parish Council and some objectors that the Longville Arms has been significantly over-valued in the asking price may have some justification. The Market Demand Report comments that:

“The property was placed on the market in December 2015 with a reputable agent who specialises in the sale of public houses. The marketing campaign has been verified and full marketing via online platforms and printed publications was undertaken. The property particulars have been requested by 573 parties and one viewing arranged. No offers to purchase the property have been received and this includes any party from the nearby areas. I can only conclude that other professional public house owners/tenants do not view the property, for whatever reason, a viable prospect”.

6.1.28 This may be the case, but given the incomplete information submitted the with the application (i.e. the absence of independent valuation) and inconsistencies in the application, it has to be questioned whether in fact there has simply been no interest in buying the Longville Arms because the purchase price does not accurately reflect the value of the property. The application has omitted to include any information on the accuracy of the purchase price or any justification for asking price being sought. It should be noted that Longville Arms has been on the market for more than four years and that during that time there has been no reduction or change in the asking price which is still listed as having a Freehold Price of £495,00.

Registration as an Asset of Community Value (ACV) under the Localism Act 2011 and the Implications for the Continuing Use of the Property as a Pub

6.1.29 The third issue relates to the listing of the Longville Arms as an Asset of Community Value (AVC) under the Localism Act 2011. On the one hand it is a significant material consideration that the Longville Arms was registered as an ACV, but it is also significant, as the applicant argues, despite being registered as an ACV, that no offer was made by a Community Organisation, or indeed any third party, to buy the Longville Arms, in spite of the significant number of enquiries to the agent. This potentially lends weight to the applicant’s argument, as stated in the Market Demand Report that, other professional public house owners/tenants do not view the property, for whatever reason, as a viable prospect.

6.1.30 What undermines this argument, is the issue relating to the purchase price as set out

above. If this is not realistic or justified, then this may have adversely affected interest in buying the property, potentially to a significant degree. As stated above there is no evidence that the applicant has sought to test interest by reductions in the asking price or inviting lower offers, with the purchase remaining, four years after the Longville Arms was first put up for sale, at £495,000 for the Freehold.

- 6.1.31 One incidental point that should be noted is, as stated above is that the application refers to the appeal against the designation of the building as an ACV and that the decision issued by Shropshire Council upheld the listing of the Longville Arms building as an ACV but accepted that the Coach House (including Coach House Cottage and The Old Coach House) should be removed from the listing. This is of little or no direct significance to this application. This issue was considered as part of the recent determination of the two Lawful Development Certificates for the continued residential use of Coach House Cottage (Application Ref. 18/04502/CPE) and The Old Coach House (Application Ref. 18/04504/CPE). The report on those two applications identified that the Reviewing Officer had referred to Coach House Cottage and the Old Coach House as being physically separate from the main pub building and as not having or recently having had an actual use (ancillary or otherwise) that furthers the interests or social wellbeing of the local community. It also refers to them incorrectly being a “separate planning unit”, when no evidence was submitted to the Listing Review either directly or indirectly from the Local Planning Authority to indicate or confirm that the properties are or were a separate planning unit. In fact, the determination of the two recent two Lawful Development Certificates has confirmed that Coach House Cottage and The Old Coach House do not comprise a separate planning unit. In any event it should be noted that the current application, which is only for a single residential unit, includes Coach House Cottage and The Old Coach House. If therefore, permission were to be granted they would have no more than an ancillary use and could not be lawfully occupied without a further grant of planning permission.
- 6.1.32 What is of relevance, is that if the Coach House Cottage and The Old Coach House were to be separately owned and occupied, then this could have an effect on the viability of the pub. This is because the two buildings were consented and developed as holiday accommodation in association with the pub and if the revenue stream from these were to be severed from the pub then this could reduce the turnover of the business and have a negative impact on the viability of the pub by reducing revenue. There would also be the added complication in land use terms of having two separate residential properties in very close proximity to the pub, raising the issue of potential amenity impacts on the occupiers of the two properties, as result of any noise, smells or other disturbance from the pub. On the other hand, if the two properties were to be sold-off, it could potentially raise a not insignificant capital sum which could be used to upgrade or undertake any works to the pub or off-set any capital liabilities, reducing outgoings, in which case there could be a benefit resulting in improved viability. Without specific assessment it is not possible to draw any clear conclusions one way or the other.
- 6.1.33 What is clear is that whilst on the one hand significant weight could have been attached to the designation of the Longville Arms as an ACV, lending weight to the argument as to why the consent for the change of use being sought should not be granted, the fact that there was then subsequently no interest from a Community

Organisation, or any a third party, in making an offer for the Longville Arms, could potentially add significant weight to the applicant's argument that the continued use of the building as a pub is not viable and that there is no viable alternative economic use. However, the lack of an independent valuation, and explanation of justification for the purchase price being requested, and the seeming unwillingness of the applicant to test the level of interest by any reduction in price over a four year period, serves to undermine to a significant degree the weight that should be attached to the lack of an offer from a Community Organisation or third party. This accordingly must add further weight to be attributed to the inadequacies and inconsistencies in the information submitted with the application, in terms of justification why planning permission should be granted for the change of use to residential, in relation to the tests set out in Core Strategy Policies CS5, CS8 and CS15 and the requirements of the NPPF.

Whether there is a Viable Alternative Economic Use

- 6.1.34 The question of whether there is a viable alternative economic use raises the same issue as the designation of the Longville Arms as an ACV. The Market Demand Report concludes that there is no evidence of market demand for an alternative commercial use. This assertion appears to be based on there having been no offers for the pub from any potential third-party buyers. Again, whilst on the face of it, this lends weight to applicant's case, this also has to be set against the lack of an independent valuation, an explanation of justification for the purchase price being requested, and the seeming unwillingness of the applicant to test the level of interest by any reduction in price over a four year period. This also adds weight to be attributed to the inadequacies and inconsistencies in the information submitted with the application.

The Principle of Allowing the Conversion of the Property to Residential Use.

- 6.1.35 Finally, in relation to the principle of allowing the conversion of the property to residential use, as set out above the presumption of Core Strategy Policies CS5, CS8 and CS15 and also the NPPF, is that existing facilities and assets should be retained unless, it is clearly demonstrated that, this is no longer a viable option and that community and economic uses and uses which maintain vitality and sustainability and which contribute to the quality of life of residents and visitors should be considered first in preference to other types of use, including residential development. In terms of the principle, the policies do not rule out the possibility of the conversion to residential, but if it has not been demonstrated that the either the existing use as pub is not viable or that there is not a viable alternative economic use, then residential conversion will not be acceptable given the presumption set out in the policies in favour of retaining existing communities facilities. On the other hand, if either has been demonstrated, then the test is one of whether the proposed change of use will maintain and enhance countryside vitality and improve the sustainability. Change of use to a single dwelling may have some very limited sustainability benefits in terms of the provision of one additional residential unit, albeit a large one, but in reality, particularly given that there are no significant works involved, the amount of weight that can be attached to this in terms of maintaining and enhancing countryside vitality and improve the sustainability the rural community is likely to be limited. Given the proposal does not propose any significant works to the building the

impact on the building as a heritage asset will be negligible.

6.2 The Impact of the Proposal on the AONB and the Rural Economy

- 6.2.1 As development with the Shropshire Hills AONB, the Council must in determining the application comply with the statutory obligation under s.85 of the Countryside and Rights of way Act 2000, to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. In addition, Core Strategy Policies CS5 and CS17 on Environmental Networks, seek to ensure that all new development protects and enhances Shropshire's natural environment including the AONB. As there are no works proposed as part of the application there no obviously significant concerns, and a condition can be attached to the grant of consent to reserve details of any landscaping and boundary treatments.
- 6.2.2 From an economic perspective, Policy CS16 on Tourism, Culture and Leisure, supports development that promotes opportunities for accessing, understanding and engaging with Shropshire's landscape, cultural and historic assets including the Shropshire Hills AONB and, rights-of-way network. Allowing conversion of the Longville Arms to residential use would be inconsistent with this objective, albeit that it does not go as far seeking to prevent the permanent loss of existing tourism and leisure facilities and services within the AONB. As such only limited weight can be attached to this inconsistency, although when also considered in the context of the Policies CS5, CS8 and CS15, as detailed above, much greater weight can be attached to the permanent loss of the Longville Arms as a community facility and the adverse impact on the vitality sustainability of the area.

6.3 Other Issues

- 6.3.1 There are three other issues that should be noted; whether the requirement for an affordable housing contribution should still be applied, highway safety considerations and the potential contamination on the site.
- 6.3.2 Affordable Housing Contribution: This an issue insofar as the requirement for an affordable housing contribution under Core Strategy Policy CS11 on the Type and Affordability of Housing was set out in the Officer's Report on the previous application Ref. 17/01687/FUL. The Policy includes a requirement for an affordable housing contribution from residential conversion schemes in the countryside, where permitted under Policy CS5, except listed buildings. This requirement has however been superseded following the Written Ministerial Statement by the Minister of State for Housing and Planning on support for small-scale developers, custom and self-builders issued in November 2014 and the subsequent change in policy set out in the NPPF. As a result, the requirement for an affordable housing contribution no longer applies.
- 6.3.3 Highway Safety: It should just be noted that the Highways Officer has advised that the proposal does not give rise to any highway safety concerns and therefore does not raise any significant issues in relation to relevant development plan policy set out in Core Strategy Policy CS6 on Sustainable Design and Development Principles.
- 6.3.4 Contamination: The risk of contamination on the site is set out in the comments from Regulatory Services. These do not raise any significant issue in relation to the

determination of the application and can be addressed, as recommended, by condition to ensure compliance with Core Strategy Policy CS6 on Sustainable Design and Development Principles and paragraphs 178-180 of the NPPF.

7.0 CONCLUSION

- 7.1 For the reasons set out in this report, the application has not overcome the first reason for refusal stated in decision notice on Planning Application Ref.17/01687/FUL and in particular that the proposal would result in the permanent loss of a local community facility to the detriment of the social and economic vitality and quality of life of the community in Longville in the Dale.
- 7.2 Whilst it has been demonstrated that the applicant made a trading loss in all of the years that it operated the Longville Arms and that this may be indicative of the fact that the Longville Arms, like many rural pubs is not likely to be viably maintained solely on the basis of reliance on the trade of the small locally resident population in and around Longville in the Dale, this does not itself demonstrate that it cannot still operate as viable business. Whilst the application states that the applicant has invested a not insignificant amount of capital in the pub by way of maintenance and improvements, there is nothing to suggest that this was done with a view to developing the Longville Arms with a wider market appeal or to even retain the custom of the local community in and around Longville in the Dale. Anecdotal evidence set out in the comments from the Parish Council and third-party representations suggest that the Longville Arms has become a place that was no longer sufficiently welcoming and attractive as a place to visit. There has been no attempt to demonstrate why developing a wider market appeal would not work when this has as a successful model been adopted in some other pubs in rural Shropshire.
- 7.3 In addition, no independent valuation has been provided and inadequate and inconsistent information has been submitted to demonstrate that the purchase price of the Longville Arms being requested by the applicant is realistic or justified when it is being argued that the building is beyond economic repair and the business not viable. There is in addition, no evidence to indicate that the applicant has sought to test the market through any amendment or reduction in the asking price over the four years that Longville Arms has been on the market.
- 7.4 Significant weight can be attached to the designation of the Longville Arms as an Asset of Community Value (ACV), but equally significant weight can also be attached to the lack of any offers or interest in buying the Longville Arms, whether by a Community Organisation or a third party, which is in favour of the applicant's case. The latter is however significantly diminished by the shortcomings in demonstrating that the purchase price set by the applicant is realistic or justified. For this reason the applicant has failed to demonstrate or justify the claim that there is no evidence of market demand for retaining the Longville Arms in its existing use as a pub or an alternative economic use and therefore that allowing the proposed change of use is justified.
- 7.5 For this reason, the application cannot be considered have demonstrated that the allowing the proposed change is use would maintain and enhance countryside vitality and improve the sustainability of Longville in the Dale as a rural community in

accordance with Core Strategy Policy CS5. It also does not justify approval of the application contrary to Core Strategy Policy CS8 and Policy CS15 and paragraphs 83 and 92 of the NPPF which seek to ensure the retention and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs, and should be retained for the benefit of the community.

7.6 It is therefore recommended that the application be refused for the reason(s) set out at the beginning of this report.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry; and
- The decision may be challenged by way of a Judicial Review by a third party.

8.1.2 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.

8.1.3 Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

8.2.1 Article 8 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.

8.2.2 First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

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

8.3 Equalities

8.3.1 The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

9.1 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

National Planning Policy Framework (2019)

Shropshire Local Development Framework: Adopted Core Strategy (March 2011)

- Policy CS1: Strategic Approach
- Policy CS5: Countryside and Green Belt
- Policy CS6: Sustainable Design and Development Principles
- Policy CS8: Facilities, Services and Infrastructure Provision
- Policy CS11: Type and Affordability of Housing
- Policy CS15: Town and Rural Centres
- Policy CS16: Tourism, Culture and Leisure
- Policy CS17: Environmental Networks

Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan (December 2015)

- Policy MD7a: Managing Housing Development in the Countryside

Relevant Planning History:

PREAPP/16/00248 - Proposed redevelopment of site for housing. PREUDV 4th August 2016
 17/01687/FUL - Change of use of former public house to residential REFUSE 8th August 2017
 18/03355/FUL - Change of use of former public house to residential (resubmission of 17/01687/FUL) PCO
 SS/1/6092/P/ - Conversion of existing outbuilding to provide bedroom accommodation for letting. PERCON 12th October 1995
 SS/1987/666/P/ - Conversion of barn to workshop, store and shop for agricultural electrician. PERCON 26th October 1987
 SS/1985/373/P/ - Change of use of former Coach house to workshops for light industrial use. PERCON 28th August 1985
 SS/1981/464/P/ - Conversion of part of outbuilding to a residential unit. PERCON 18th September 1981

SS/1981/443/P/ - Conversion of outbuildings into 3 self-contained residential units. SUPERS 13th August 1981

SS/1/00/11060/F - Conversion of barn to 2 No. additional letting bedrooms and games room. PERCON 30th August 2000

SS/1/00/11058/F - Erection of extension to public house/hotel. PERCON 29th June 2000

SS/1/05/17285/F - Conversion of outbuilding to provide holiday let unit. PERCON 12th September 2005

SS/1/99/009767/F - Erection of an entrance porch. PERCON 8th April 1999

SS/1978/-/A/130 - Display of projecting illuminated 'Wm Youngers' advertisement sign. REFUSE 28th July 1978

11. Additional Information

[View details online:](#)

List of Background Papers

- Application Documents, Representations and Consultation responses for Planning Application Ref. 18/03355/FUL available to view online at:
<https://pa.shropshire.gov.uk/online-applications/search.do?action=simple&searchType=Application>
- National Planning Policy Framework (2019)
- Shropshire Local Development Framework: Adopted Core Strategy (March 2011)
- Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan (December 2015)

Cabinet Member (Portfolio Holder)

Councillor Gwilym Butler

Local Member

Cllr Cecilia Motley

Appendices

None.

Development Management Report

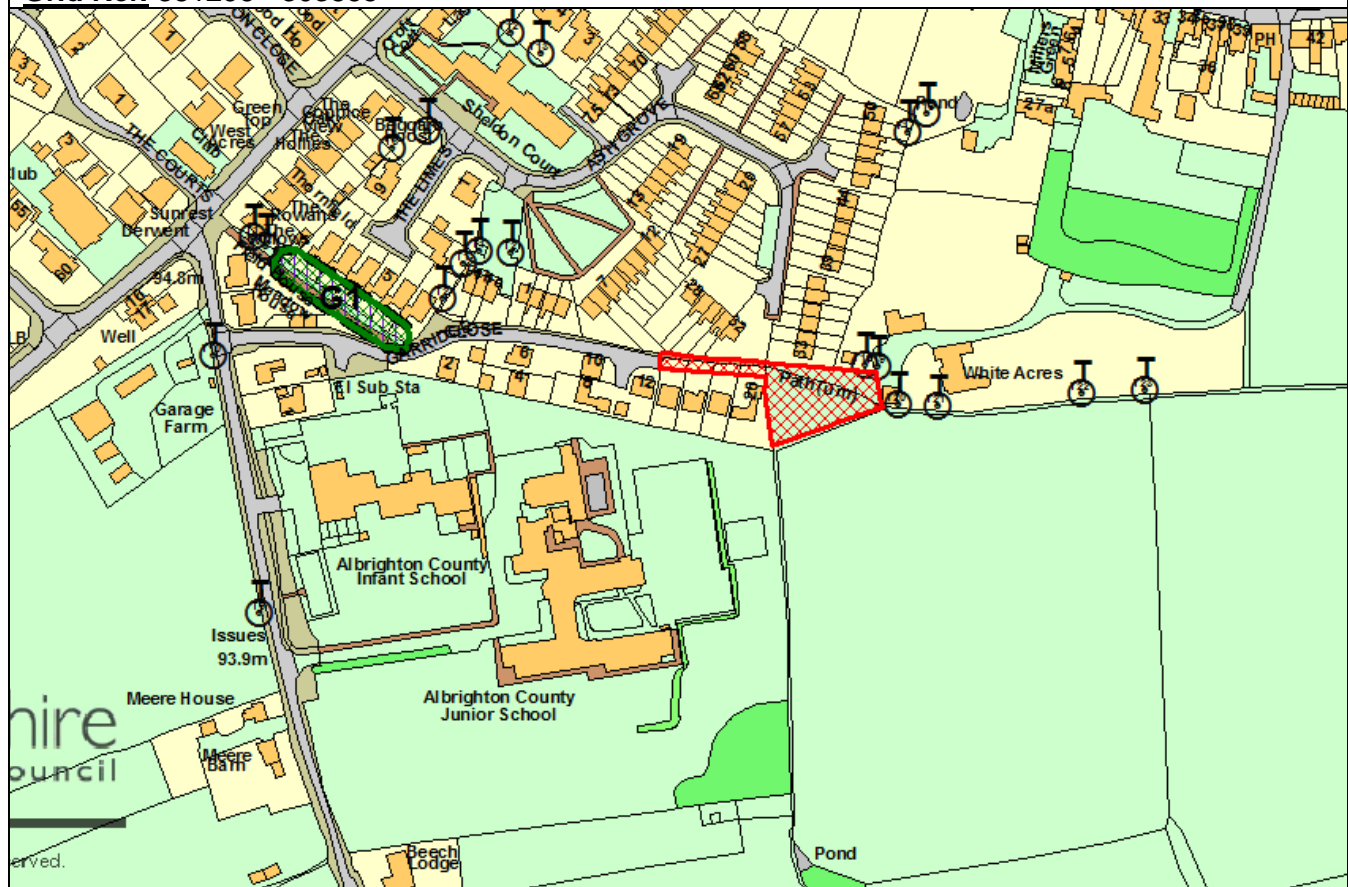
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 19/02785/REM	Parish:	Albrighton
Proposal: Approval of reserved matters (appearance, landscaping, layout, scale) pursuant to 14/03657/OUT for the erection of three residential properties		
Site Address: Land To The East Of Garridge Close Albrighton Shropshire		
Applicant: Shropshire Council		
Case Officer: Mike Davies/Richard Fortune	email:	planning.southern@shropshire.gov.uk

Grid Ref: 381296 - 303865



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT**1.0 THE PROPOSAL**

1.1 Outline planning permission for residential development on this site, which included details of the access arrangements, was granted planning permission on 28th July 2016, with the decision to grant planning permission having been made at February 2016 South Planning Committee meeting, subject to there being a mechanism to secure an affordable housing contribution. (Ref.14/03657/OUT). It is part of a site allocated for additional housing development under SAMDev Policy S1 Albrighton. The principle of residential development has therefore been accepted and cannot be re-visited in the consideration of this reserved matters application. The only matters for consideration here are the appearance, landscaping, layout and scale of the proposed development.

1.2 This proposal relates to some 0.16 hectares (0.4 acres) of land which is currently vacant, but which was last used as agricultural pasture land. Vehicular access to the development would be via Garridge Close to the west, which comprises of a cul-de-sac with turning head, from which an approximately 50 metre long section of private drive some 4.8 metres wide, with adjacent 2.0metres wide footpath/bridleway, leads to the western site boundary. A 0.7metre service strip is also shown on the southern side of the private drive. This section of private drive, bridleway/footpath and service strip forms part of the application site. The development was originally proposed as a terrace of three dwellings, but in response to concerns raised by Highways about the location of the parking and bin store areas, this has been amended to a pair of semi-detached dwellings and a detached property. The semi-detached units have two dedicated car parking spaces, whilst the detached unit has three spaces, all immediately adjacent to the dwellings they would serve. The site layout drawing shows three properties sited as a continuation of the existing row of properties along Garridge Close, with the access road along the northern side of the site also giving vehicular access into the grounds of a property known as 'White Acres'. The layout shows the public bridleway through the site retained and the proposed buildings standing clear of three trees which are the subject to a tree preservation order which are positioned along the eastern site boundary.

1.3 The proposed two storey, dual pitched roof dwellings would feature full gables, with the ridges running parallel to the road. There would be a slight stagger to the two units forming the semi-detached pair. External finishes would be facing brick walls and tiled roofs. Each dwelling would provide a living room, wc and kitchen/dining area on the ground floor, with two bedrooms and a bathroom at first floor level.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is located at the end of Garridge Close in Albrighton and forms part of a larger site known as 'White Acres' which is allocated for future residential

development under policy S1 of SAMDev Plan. This site forms the entrance point to the larger housing allocation site (ALB003), which in the private ownership. The application site is owned by Shropshire Council.

2.2 The site is situated on the southern side of Albrighton. A public footpath/bridleway crosses the site. To the north and west is existing residential development. The grounds to the White Acres dwelling wrap around the eastern end of the site, with agricultural land to the south. At the eastern end of the site is a group of oak and ash trees, which are the subject of tree preservation orders. There is a damson tree close to the northern site boundary also a group of young birch, sycamore and ash trees close to the southern boundary.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The applicant is Shropshire Council for a development which is not related to its statutory functions. Such applications must be determined by the relevant Planning Committee under the adopted scheme of delegation.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Albrighton Parish Council - The Parish Council at its meeting on 3rd July 2019 agreed to support this application.

4.1.2 SC Drainage – Comment:

No proposed drainage details, plan and calculations have been provided for comment.

(Case Officer comment: Condition 6 of the outline planning permission requires a scheme for foul and surface water drainage to be submitted and approved via a separate discharge of condition application).

4.1.3 SC Trees – Comment:

Do not object to this application in principle on arboricultural grounds, but have a number of concerns and some amendments are required.

The Proposed Block Plan (HS167 01 Rev A) states that there is to be no-dig construction within the canopy and root zone of TPO trees. However, the root protection area (RPA) for the off-site TPO trees is not shown on the plan and it is thus unclear as to the location and extent of the area of no-dig construction. This must be clarified and marked on the plan for certainty and enforceability, should

permission be granted.

Recommend that the no-dig specification be amended to allow for porous asphalt, or some other gas and water permeable wearing course. The reference to sand blinding on the plan should also be amended to state sharp sand and specifically exclude the use of builders' sand, because of its toxicity to tree roots.

No specific arboricultural information has been submitted with this application and I would recommend that a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) be prepared by a competent arborist.

With regard to the proposed landscaping, would recommend removing the two oak trees (reference number 4 on the plan) from the planting scheme, because there is insufficient space on this small site to accommodate trees of this size at maturity. Also, insufficient details have been provided in terms of the actual planting specification and further information is required on the following: site preparation and cultivation, planting pit specification, type and size of tree and hedge planting stock, means of tree protection and support, post-planting maintenance and replacement of any losses.

4.1.4 SC Rights of Way – No Comments

4.1.5 SC Highways – Comment (On original proposed layout):

The bin store for all three houses has been placed with parking away from any of the houses which will cause the residents to either walk an unnecessary distance, carrying waste products or to ignore the bin storage altogether and make their own arrangements which is a waste.

It is understood that the set-aside parking area also provides a large vehicle turning area (refuse wagon etc) but it is considered that without provision to keep it as a turning area, locals will park in it.

If house two was removed and placed in the green space between house three and the parking area – all of these matters would be resolved as they would all have parking alongside of each house and waste storage could be managed on each plot, individually.

As the potentially new road is currently the driveway for a number of houses, it is required that the proposed road be made up to highway standard.

Due to the physical constraints of the site, a construction management statement is required.

4.2 - Public Comments

4.2.1 Site notice displayed 02/07/2019; press notice published 02/07/2019. 21 neighbour consultation letters sent.

7 Objections received and summarised below. The full text of the comments received can be viewed on the Council's website:

- ④ Increased traffic flow and safety of children and pets
- ② Access for emergency services even more restricted
- ② There is rear access to Garridge Close from properties opposite, which increases the congestion
- ② Congestion that occurs daily during school term time due to Garridge Close backing on to Albrighton Primary School.

② Outline planning permission (Ref:14/03657/OUT) was submitted with an illustrative plan showing three detached houses in their own gardens. The approach of detached houses previously shown is in keeping with the context of the streetscape that the housing relates to. However, the reserved matters layout is for a terrace of three properties with parking court and very poorly detailed buildings with limited if any design merit or links to design cues from surrounding properties.

② The approach to layout and architectural design (or lack thereof) has not been accompanied by any analysis to provide justification for the approach taken.

② The adopted 2011 Core Strategy provides the starting point for assessing the proposals and all of the four outstanding reserved matters being applied for need to be assessed against the relevant policies of the Core Strategy alongside key material considerations, namely the National Planning Policy Framework (amended February 2019). At present no assessment against the relevant policies and material considerations has been put forward by the applicant. The layout and design approach therefore remain unjustified.

② The most relevant Core Strategy policy in respect of the reserved matters application is Policy CS6. This policy places great weight on achieving sustainable places by ensuring development is designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness. Development will achieve this where it protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character

② The current proposal does not accord with Policy CS6. The urban character that the site relates to is that of high quality detached homes with a good standard of architectural detailing and generous gardens. Parking is on plot through the use of a garage and / or front drive.

② The Council's highway advisor has quite rightly also picked up on the poor quality layout and unacceptable use of a parking court rather than on plot provision of spaces.

The reserved matters scheme fails on all counts to respond to the local context and has not been developed in consultation with the local

community. It has failed to have regard to the indicative layout that was submitted at outline stage. No justification has been given for moving away from an approach of detached dwellings which the applicant must originally have accepted as being the suitable approach to the site otherwise why show detached dwellings, even indicatively?

There is a clear policy expectation, in line with NPPF guidance, that the reserved matters application would evolve the detached layout. Instead it has been changed to something inconsistent with the local context. This is design regression not evolution. The current application falls short on design expectations in respect of relevant policy. The conclusion can therefore only be that it does not accord with the relevant policies for its determination and cannot be considered as sustainable development. The reserved matters application should be refused, or the applicant asked to amend the plans to show detached homes and a much higher quality of architecture. If amendments are made to the scheme, we reserve the right to provide further comment.

5.0 THE MAIN ISSUES

Principle of development
Sustainability
Siting, scale and design of structures
Landscaping
Residential Amenity
Access

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The principle of residential development on this land has been accepted with the grant of outline planning permission 14/03657/OUT. This application cannot re-visit that principle and relates solely to the reserved matters specified in condition 1 of that permission – appearance, landscaping, layout and scale.

6.1.2 The SAMDev Plan housing site allocation of which this application site forms part (Schedule S1.1a (ALB003)) has development guidelines stating that the housing delivered should be capable of occupation by persons of retirement age and there is nothing intrinsically wrong with the house types proposed to prevent their occupation by people of retirement age. A proportion of one and two bed units is sought for the whole allocated site and this proposal would provide three 2 bedrooled units. There is no in-principle planning policy objection to the current reserved matters proposals.

6.3 **Siting, scale and design of structures**

- 6.3.1 Core Strategy policy CS6 seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev Plan policies MD2, MD12 and MD13 also include criteria to be taken into account in considering scale, layout, appearance and landscaping.
- 6.3.2 The layout has been amended in consultation with the Highway Authority following concerns expressed in relation to the originally submitted proposals. The nature of this site and the fact that it will be the entrance point into the wider White Acres site (ALB003) means that the design layout has to a large extent been dictated by the requirement to provide access to the adjoining site and this effectively means that the line of the access road defines where these properties are located.
- 6.3.3 The proposed dwellings would be in keeping with the scale of adjacent properties and would not detract from the visual amenities of the locality, or the setting of the adjacent Conservation Area. The development would accord with the design aspirations of policy ALB11 of the Albrighton Neighbourhood Plan 'Light' in being in keeping with the existing pattern of development in this part of the village, and respecting the character of the buildings around them.

6.4 **Landscaping**

- 6.4.1 The proposed landscaping scheme would include the planting of a mixed hedgerow along the southern and northern site boundaries comprised of predominantly hawthorn but also containing hazel, guelder rose, dog rose, field maple, blackthorn, crab apple, dogwood and holly. New trees proposed close to the southern site boundary comprise of two field maple, three rowan, and two oaks. The rear garden areas would be separated by 1.8m high close boarded fencing.
- 6.4.2 It is considered that the proposed landscaping would be in keeping with the locality and the edge of settlement position of the plot. With respect to the comments made by SC Trees (County Arboriculturalist), condition 8 of the outline permission requires the submission and approval of a tree protection plan to avoid causing damage to significant trees during implementation of the development. Condition 9 of the outline permission requires that a schedule of tree works that it is proposed to carry out be submitted for approval, with condition 10 requiring the submission and approval of an Arboricultural Method Statement. These matters would have to be dealt with and formally approved through the submission of a discharge of conditions application, separate from the consideration of the reserved matters. The removal of the proposed oak trees in the rear garden of plot 1 and side garden of plot 3 is a matter which could be conditioned on any approval, together with the submission of a full specification to support the landscaping scheme).

6.5 Residential Amenity

6.5.1 The proposal is not considered to have any adverse impact in terms of impact on privacy of existing or future residents. The nearest property is No.20 Garridge Close which abuts the site, but there is no direct impact on the amenities of this dwelling resulting from the development.

6.6 Access

6.6.1 The access to the plot via Garridge Close has been approved with the grant of outline planning permission 14/03657/OUT. The design of the access road will allow for the future development of the adjoining Whiteacres site (ALB003), which is an allocated housing site in the development plan. The site will be accessed from Garridge Close utilising the existing footpath/bridleway which runs between the rear of the properties on Ash Grove and those fronting onto Garridge Close. It will be a continuation of the existing highway, which currently terminates at the turning head in Garridge Close.

6.6.2 The proposed layout of the development has been amended to address the matters raised by Highways. The amended layout would provide parking in each plot and bins would also be located within each plot. The turning head area would now be separate from the parking arrangements. With respect to their other comments, condition 11 of the outline planning permission requires details of the design and construction of new roads, footways and accesses to be submitted for approval, and condition 14 requires the submission and approval of a Construction Method Statement, which has to be dealt with separately from the consideration of these reserved matters through a discharge of condition application.

7.0 CONCLUSION

7.1 The principle of residential development on this land has been accepted with the grant of outline planning permission 14/03657/OUT. This application cannot re-visit that principle. The reserved matters proposals would provide two bedroomed dwellings, which is a type of accommodation sought for a proportion of the larger housing site SAMDev Plan housing allocation of which the current application site forms part, and the dwelling designs would be capable of occupation by people of retirement age.

7.2 There are no highway safety, drainage, residential amenity or ecological reasons that would weigh against the reserved matters details. Drainage and ecological interests, as well as the safeguarding of neighbour amenity during the build process are already safeguarded through the conditions on the outline planning permission. The design is considered to be in keeping with the locality and to meet a recognised housing need. The landscaping details require some refinement to address the matters raised by the County Arboriculturalist, and this can be achieved by condition.

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:
National Planning Policy Framework

Shropshire Core Strategy and SAMDev Plan policies:
CS1 - Strategic Approach
CS3 - The Market Towns and Other Key Centres
CS6 - Sustainable Design and Development Principles
CS10 - Managed Release of housing Land
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD2 - Sustainable Design
MD3 - Managing Housing Development
MD12 - Natural Environment
MD13 - Historic Environment
Settlement: S1 – Albrighton

Albrighton Neighbourhood Plan 'Light'.

RELEVANT PLANNING HISTORY:

14/03657/OUT Outline application for residential development (to include access) GRANT 28th July 2016

11. Additional Information

[View details online:](#)

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PTESPVTDFJX00>

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 Gwilym Butler

Local Member

Cllr Malcolm Pate

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. 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.

2. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory.

9. Notwithstanding the details that have been submitted, the proposed oak trees shown on drawing HS167/01 REV A do not form part of the approved landscaping scheme. Prior to the first occupation of the dwellings the approved landscaping scheme shall be supplemented with details comprising a planting plans, written specification of planting and cultivation works to be undertaken and schedules of trees and plants, noting species, sizes and proposed numbers / densities and an implementation programme, which has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be carried out in full in accordance with the approved details. Any trees or plants which, within a period of five years from planting, die, are removed, or become seriously damaged or defective shall be replaced by trees and plants of the same specification as previously approved in the next available planting season.

REASON: To ensure that the development achieves a high standard of design, layout and amenity and makes provision for landscaping which contribute to the creation of a high quality, accessible, safe and attractive public realm in accordance with Policies CS6 of the Shropshire Core Strategy (2011) and MD2 of the Shropshire Council Site Allocations and Management of Development Plan (2015).

Informatives

1. In arriving at this decision Shropshire 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 38.

2. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation.

3. 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.

4. 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 or from the Local Planning Authority. The fee required is £116 per request, and £34 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.

5. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.

6. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

7. It is recommended that the applicant investigate ways of incorporating techniques of 'Sustainable Urban Drainage' into this development. These will help to minimise the impact of the development with features such as porous parking, detention ponds, grass swales and infiltration trenches. This will maintain the recharge of groundwater resources, reduce large fluctuations in river flows during rainfall and stop pollutants from road runoff from entering watercourses. Further information can be obtained from the Environment Agency.

8. The applicant is advised that, in accordance with the attached note, a licence must be obtained from the Highway Authority before any works are carried out on any footway, carriageway, verge or other land forming part of the highway.

9. The applicant is reminded that confirmation of a Diversion Order for the public right of way shall be obtained prior to development being commenced. The commencement of development prior to such confirmation would be likely to lead to legal complications and/or possible infringement of existing public rights and thus conflict with other legislation.

10. By virtue of the Town and Country Planning Act 1990, your attention is drawn to the following statutory provisions and Code of Practice relating to the needs of disabled people: Sections 4, 7 and 8A of the Chronically Sick and Disabled Persons Act 1970, Disability Discrimination Act 1995, BSI Code of Practice BS5810:1979 relating to Access for Disabled to Buildings, and the Building Regulations 1992 Approved Document M. Please ensure that you are taking account of these requirements.

11. If it is the developer's intention to request Shropshire Council, as Highway Authority, to adopt the proposed roadworks as maintainable at the public expense, then details of the layout, alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations shall be submitted to: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND,

No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into.

12. The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

13. Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

14. This planning permission does not authorise the applicant to:

- a) construct any means of access over the publicly maintained highway (footway or verge) or
- b) carry out any works within the publicly maintained highway, or
- c) authorise the laying of private apparatus within the confines of the public highway including any new utility connection, or
- d) undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team.

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

Development Management Report

Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 19/03734/OUT	Parish: Minsterley
Proposal: Outline application (access for consideration) for mixed use development of residential and business units	
Site Address: Proposed Development Land At Former Bus Depot Minsterley Shrewsbury Shropshire	
Applicant: ATBAY Ltd	
Case Officer: Nanette Brown	email: planning.northern@shropshire.gov.uk

Grid Ref: 337923 - 305285



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks outline planning consent for a mixed use for the site, to include residential and business units with associated parking. All matters have been reserved for future consideration with the exception of access to the site which is to be considered by this application.
- 1.2 This development was first considered by the Southern Planning Committee on 19th November 2019 where it was resolved that the application be deferred to enable the applicants to submit further information on the potential impact of noise and traffic movements associated with the adjacent industrial/commercial premises on the health and wellbeing of the proposed dwellings and their gardens immediately adjacent to the boundary with those premises and to clarify the highway safety design considerations for the proposed access and its location.
- 1.3 An amended layout plan has been submitted that shows two vehicular access points to now serve the site that would separate commercial and residential traffic with a total number of 16 residential dwellings provided and 4 commercial units. A noise survey has also been submitted in support of the application. Consultations on these documents has been carried with SC Highways and SC Regulatory Service Officers.
- 1.3 The application form submitted states that social houses are proposed along with 360sqm of B1(c) light industrial space which would equate to 12 fulltime jobs.
- 1.4 The amended site layout plan now submitted shows two proposed site accesses, one access to serve the residential properties still located at the south eastern corner of the site, due to flood risk considerations, with a second access providing access to the commercial units. This drawing also gives an illustrative layout indicating the potential layout of the proposed housing at the front (south & east) section of the site as well as at the rear (north) of the site with the commercial units set to the west side of the site.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application is set to the north of the A488, the main road that passes through Minsterley. The western boundary of the site extends to the eastern edge of the adjacent Muller dairy site, with residential housing located to the east, including the recently built housing accessed off Linden Fields. To the south of the site and A488 are situated some further residential properties, Maple Drive.

2.2 This brownfield site is currently unused and is surrounded by a metal security fence. The site area is stated as being 5737sqm.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application was first considered at Southern Planning Committee 19 November 2019 where it was resolved that the development be deferred to enable the applicant to submit further information on the potential impact of noise and traffic movements associated with the adjacent industrial/commercial premises on the health and wellbeing of the proposed dwellings and their gardens immediately adjacent to the boundary with those premises and to clarify the highway safety design considerations for the proposed access and its location. Having now received amended plans and a noise survey, and undertaken a re-consultation of the relevant consultees, the amended scheme is now ready to be presented to the Planning Committee for further consideration.

4.0 Community Representations

4.1 - Consultee Comments

The following consultee comments were received in relation to the amended site layout plan and noise survey :-

4.1.1 SC Highways – No objection

Shropshire Council as Highway Authority would raise no objection in principle to the proposed development, and the creation of two proposed accesses onto the Highway. Submitted drawing, TC/VS/01, provides details of proposed visibility splays for both accesses. It is considered that the proposed visibility splays maximise visibility for vehicles emerging and are acceptable in view of the surrounding road conditions. It would be desirable if the visibility splay to the east of the proposed residential access was increased to 59 metres, to take into account anticipated approach speeds. However, it is not considered that the proposed visibility splay of 48 metres is grounds for a Highway objection. A visibility splay of 2.4 metres by 43 metres is the minimum requirement for a 30mph speed limit, and the proposed visibility splay exceeds the minimum requirement.

In the event planning permission is granted, all drawings forming part of the decision should replicate the proposed visibility splays shown on drawing TC/VS/01. Visibility splays of Block Plan TC/MN/01 show visibility splays of 2.4m x 43 metres, therefore this drawing will require updating prior to any decision.

Notwithstanding the fact that the application under consideration is outline with only access a matter for consideration, the submitted application form does confirm that there will be new roads to be adopted, and therefore it should be noted that that the indicative layout does not meet adoptable standards in terms of layout. We will

require service strips to be provided on both sides of the carriageway and swept path analysis to be submitted. The carriageway width between Plot 4 and 10 looks narrow on the bend, and the carriageway width providing access to the business units also looks narrow for its intended use, with no radius on the junction.

It is recommended that a condition is attached to any permission granted that required the visibility splays to be provided in accordance with Drawing TC/VS/01 and kept clear, as the building positions on the indicative layout appears to be located parallel to the proposed visibility splays.

4.1.2 SC Regulatory Services - No objection

Having read the noise assessment and visited site and with the planning inspector's observations in relation to noise. Quote

"...there is no evidence before me to demonstrate that any potential effects of noise on existing and future residents cannot be adequately mitigated through appropriate siting of the proposed uses and the use of mitigation measures that could be secured by way of appropriately worded conditions, were I minded to allow the appeal.

Therefore find that the proposal would provide adequate living conditions for future occupants and would not result in any significant harm to the living conditions of existing neighbouring residents, with regard to noise."

Consider that the noise report be accepted as being an accurate and representative analysis of the noise environment at the site and the described mitigation in terms of fencing, acoustic glazing and overheating ventilation (please note there is new guidance on the latter released this week) and the site layout be undertaken. Would further suggest that the glazing specification to the properties to the rear of the site, and closer to the rear of Mullers and currently marked as green in relation to the specification, are precautionarily upgraded to receive orange specified mitigation. Although road noise is identified as a dominant noise source at the properties of the road facing the site, would note that the proposed business units – which themselves may require conditioning or use class to ensure they do not cause disturbance to existing and potential future residents- are a barrier and increase the setback properties from the Muller factory.

Having visited the site and gained some local knowledge, the rear of the site does appear to be quiet. It is known that there are three delivery bays border onto the site, behind the proposed business units and that reversing alarms would likely be audible but this is possibly this is only a daytime delivery schedule which may be a policy by Muller that, despite the factory being a 24 hour operation, not to cause wider disturbance in the village caused by delivery vehicles.

The council has to have regard to the Agent of Change Principle and Paragraph

182 of the National Planning Policy Framework (NPPF) which requires that any new development should not result in existing businesses and facilities having unreasonable restrictions placed upon them as a result of development permitted after they had become established.

The planning inspector's observations, and the noise report, current housing and subsequent visit paint a picture that the site is applicable to the proposed residential development. However the proposed development is closer to the factory and there will likely be low levels of noises consistent to the ordinary operations of the factory such as vehicle movements and possibly various occasional plant noises.

Would also point out that there are a number of 'flood light' units on the factory which are required for safety of the delivery bays and to illuminate the plant and silo at the rear. Given the orientation of the existing properties, this may not cause too much issue to them, but may well do to the proposed properties which appear to have windows facing the factory.

Consultation responses previously received:

4.1.3 SUDs – No objection

Comments dated 9 September 2019:

The Surface Water Management Plan in the submitted FRA is acceptable in principle. Our drainage comments No. 2: Condition and No. 3: Informative Notes dated 3 September 2019 remained unchanged.

Comments dated 3 September 2019:

1. A FRA should be submitted for approval prior to the determination of the planning permission.

4.1.4 SC Highways – Comments

It is considered that the proposed development could be acceptable, from a highways and transport perspective, if the following conditions are imposed and subsequently met.

The proposed main access road to the prospective employment area should be designed and constructed to an appropriate specification and layout to adoptable standards, to accommodate the size/weight of vehicles (HGV) that could potentially service the work units. Including appropriate parking and turning facilities, junction radii and visibility splays on the A488.

Should these proposals include significant landscaping, specific care will need to be applied to ensure that any new and existing trees, or sizable shrubs, do not result in difficulties for highway/pedestrian safety, both internally and/or along the

principal road (A488), (i.e. root growth, leaf litter, etc.)

Given the proximity of the site to local amenities and to promote travel sustainability. It is considered that the development should provide a footway along the entire A488 frontage of the site. As well as a pedestrian/cycle link to this footway from the termination of the private residential estate road.

Notwithstanding the above, the proposed parking layouts for the affordable properties, near the junction with A488, will need to be reconsidered, prior to any future submission. Currently, the potential reversing of parked vehicles into the path of turning traffic from A488, is not in the interests of highway safety.

Conditions – road design, access prior to other operations, visibility splays, footway and informatives.

4.1.5 SC Ecology – No objection

Have read the submitted Preliminary Ecological Appraisal (Arbor Vitae, n.d.). Am happy with the level of survey work and recommend that the following conditions and informatives are included on the decision notice: Landscaping Plan, Bird and Bat boxes, lighting plan, nesting birds & wildlife protection.

4.1.6 SC Regulatory Services - comments

As per application 18/03583/OUT, the applicant has answered Question 6 of the application form indicating that land at the site is known to be contaminated. However, again an appropriate assessment has not been provided. We therefore refer to our previous comments and advise that that should the application be granted, the below conditions should be applied:

The applicant has indicated in Question 6 (existing use) that the site is both known to be contaminated and contamination is suspected for all or part of the site. However, no contamination assessment has been submitted with this outline application.

The site is a former bus depot that included fuel storage and vehicle maintenance. Previous on-site investigations that Regulatory Services and the Environment Agency are aware of have identified significant contamination (organics TPHs, PAHs, and inorganics cadmium, arsenic and lead) in both soils and groundwater that remain un-remediated. Previous site investigations were carried out more than 11 years ago and given the potential mobility of the on-site contamination, Regulatory Services recommends that further investigation is now required in order to support remediation objectives for this site. Therefore, if this outline application is approved, the following conditions in respect of contaminated land are to be included in the Decision:

Contaminated land

a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Council's Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committeeservices/>

[Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf](http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf)

4.1.7 SC Affordable Housing team – No objection

The application site lies within the development boundary of Minsterley and as such Core Strategy Policy CS11 requires that the development contributes towards affordable housing. There would be a requirement for on-site affordable housing

provision based on the prevailing target rate at the time of the Reserved Matters. The current prevailing rate for Minsterley is 15% and therefore for a development comprising 18 dwellings, would generate a requirement for 2 affordable dwellings together with a financial contribution for the remaining fraction, should the indicative layout be submitted as a Reserved Matters proposal. The current proposal relates to 100% affordable provision and is supported by the Housing Enabling team, subject to a S106 Agreement being in place to retain the affordable rented dwellings in perpetuity and to prescribe allocation in accordance with the Council's Allocation Policy.

4.1.8 Minsterley Parish Council – neither objecting to or supporting

The Parish council call for this application to go to committee and ask to speak at any such meeting.

1/ This majority of this land is covenanted land for business use. The portion allocated for housing exceeds the for residential land and all the covenanted land is given to residences.

2/ any footpath should be the length of the site

3/ adopted road to have highway lighting

4/ ensure exit has correct sight lanes

5/ requires relief drainage for culver for little Minsterley to avoid flooding which is currently under investigation by Shropshire council sponsored flood relief group

8/ there is a requirement on the parish plan for a nursery facility

4.2 - Public Comments

4.2.1 One objection summarised as follows:

The adjacent Muller site currently operates with few planning restrictions and runs 24 hours a day, seven days a week; any granting of planning permission on the application site should not impede the existing and future use of this neighbouring site; previous appeal inspector considered that the development of the application site would be appropriate but with acoustic measures put into place including a site layout that places housing away from the boundary with the Muller factory; this proposed scheme and illustrative layout does not meet this previous appeal inspector requirement; given the close proximity of the site to the adjacent factory the issue of noise and disturbance should be dealt with at outline stage – no noise impact assessment has been submitted with this current application; the ownership and working patterns of the adjacent factory have changed since the previous/historic planning applications and any assessment of noise issues carried out at the time are no longer valid; NPPF para182 requires that new development should not result in existing businesses and facilities having unreasonable restrictions placed on them as a result if development permitted after they were established with the applicant being required to provide suitable mitigation before the development is completed.

4.2.2 One support received summarised as follows:

Whilst no objections to the proposed development site due to the proximity of the adoptable road to neighbours boundaries would like to ensure there is a verge between adjacent properties and the road and that the existing boundary line (dwarf wall) is respected; trees that were previously removed when the land was cleared last November (2018) should be reinstated around the site; the location of any new street lighting needs to be respectful to neighbouring properties.

5.0 THE MAIN ISSUES

Principle of development & Site History

Access

Noise

Drainage

Ecology

Affordable Housing Contribution

6.0 OFFICER APPRAISAL

6.1 Principle of development & Site History

6.1.1 Minsterley is allocated as a combined key centre along with the neighbouring village of Pontesbury. Policy CS3 sets out that Key Centres will maintain and enhance their roles in providing facilities and services providing focus for economic development and regeneration. Balanced housing and employment development, of an appropriate scale and design that respects each settlements distinctive character will also take place within the identified development boundaries and on sites allocated for development.

6.1.2 The whole of the application site is contained within the identified development boundary of Minsterley. Core strategy Policy CS14 seeks to identify and maintain a suitable portfolio of employment land and within SAMDev, policy S.12 encourages new employment opportunities on existing appropriate sites within the development boundary.

6.1.3 The site is brownfield land and the front, south western part of the site is shown covered by an allocation for protected employment land on the SAMDev plan policy maps. Schedule 12.c of policy S.12 also identifies that this allocation/commitment will amount to 0.3ha in area.

6.1.4 The amended illustrative layout plan for this application indicates the provision of business units to the front, western end of the site covering an area less than 0.3ha, with the proposed affordable housing (now 16 units) set to the front (eastern side) fronting the A488 as well as the rearmost part of the site.

6.1.5 Whilst the area shown for the business units is less than 0.3ha officers have considered this proposal in light of the criteria set out in SAMDev policy MD4.2 for proposals for alternative uses on portfolio sites. In this instance Officers consider that the proposed development whilst providing new employment opportunity, will also provide a significant community benefit with all of the housing proposed offered as social housing, well above the 15% prevailing target rate currently required and is therefore acceptable in policy terms.

6.1.6 Site History –

SA/08/1506/O – Outline application for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with a three metre and six metre high acoustic fence to include access and layout – granted at appeal.

13/03197/OUT - Renewal of Extant Planning Permission SA/08/1506/O – Outline application for the erection of twelve business units (consisting of eight B1(a) office units and four B1(c) light industry units) and thirteen dwellings together with a three metre and six metre high acoustic fence to include access and layout – Committee resolution to grant planning permission subject to a s106 agreement to secure affordable housing (s106 was not completed).

18/03583/OUT - Outline application for mixed use development for residential, retail and business units with associated parking (all matters reserved) – Appeal against none determination.

Planning Appeal – APP/L3245/W/19/3221394 - appeal under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission (18/03583/OUT) – appeal dismissed.

6.2 Access

6.2.1 This outline application includes access for consideration. The amended layout plan now shows the provision of two access points into the site, separating traffic for the proposed business and residential uses. The plan also still shows the provision of a public footpath across the whole of the sites frontage as previously agreed with the applicants. A plan has also been submitted confirming the proposed visibility splays that can be achieved.

6.2.2 SC Highways Officers raise no objection in principle to the proposed development subject to conditions to provide and maintain the shown visibility splays. They note that the proposed visibility splays for each access exceed the minimum splays of 2.4m x 43m for a road with a 30mph speed limit. Planning officers also note that the separation of traffic to the site via the two accesses would also help to minimise

any impact on the residential amenity of future occupants of the new dwellings.

6.3 **Noise**

- 6.3.1 Existing housing is located to the east of the site accessed off Linden Fields as well as Meadow Brook, an existing property accessed separately off the A488 that is also used as the offices to the charity The Pontesbury Trust.

The Planning Inspector on the previous appeal concerning this site (ref APP/L3245/W/19/3221394) considered that one of the main issues was that of noise and the impact on both the residents of the proposed development and existing neighbours from the adjacent Muller factory. The Inspector concluded that given the size of the site, there was no evidence to demonstrate that any potential effects of noise on existing and future residents could not be adequately mitigated through appropriate siting of the proposed uses and the use of mitigation measures secured by way of appropriately worded conditions.

The applicants however, at the request of the Southern Planning Committee, have now submitted a noise report that provides an analysis of the noise environment at the site and describes potential mitigation measures in terms of fencing, acoustic glazing and overheating ventilation for the new dwellings.

- 6.3.2 SC Regulatory Services Officers have considered the submitted report and raise no objections to the proposal, subject to details of noise mitigation measures for the housing nearest to the Muller factory and main road to be conditioned to be provided as part of a reserved matters application.
- 6.3.3 Officers therefore consider that the proposal would likely provide adequate living conditions for future occupants, subject to detailed noise mitigation measures being incorporated into any final design for the site at reserved matters stage and would not result in any significant harm to the living conditions of existing neighbouring residents with regards to noise.

6.4 **Drainage**

- 6.4.1 The applicants have submitted a FRA with this application. SC Suds Officers have confirmed that the contents of the submitted FRA are acceptable and are supportive of the proposals, subject to the submission of additional information of both surface and foul water drainage at reserved matters stage.
- 6.4.2 Officers note that the site is located adjacent to an existing area of mapped and reported flood risk, and whilst the development proposals will not address the cause of the flooding, they should result in a betterment in terms of flood depth and frequency for properties at risk nearby in Linden Fields.

6.5 **Ecology**

- 6.5.1 An ecological report has been submitted in support of the application that

concludes that although the site is within 350 metres of the Minsterley Meadows SSSI the proposed development does not constitute a risk to the SSSI. No evidence of badgers were found on site. The report recommends some ecological enhancements including hedge planting, erection of bat tubes and bird boxes. SC Ecologists have confirmed their agreement to the level of assessment provided and have requested that conditions be added to any planning permission granted requiring details of landscaping to be provided as part of a first submission of reserved matters, and with details of the provision of bat and bird boxes and details of any external lighting be provided prior to occupation or lighting provision.

6.6 Affordable Housing Contribution

6.5.1 SC Housing Enabling Officers have confirmed that if this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application. The current prevailing target rate for affordable housing in this area is 15%.

6.5.2 In this instance the applicant has offered up for the whole of the housing to be provided as affordable units. This approach is supported by SC Housing Enabling team, subject to a S106 Agreement being in place to retain the affordable rented dwellings in perpetuity and to prescribe allocation in accordance with the Council's Allocation Policy.

7.0 CONCLUSION

7.1 The whole of the application site is contained within the identified development boundary of Minsterley, a joint key centre with Pontesbury. Officers consider that in principle, the use of the site for mixed use of residential and business units will be acceptable and in line with current adopted policy aims. Officers are satisfied that issues of drainage details, noise assessment and mitigation and ecological enhancement can all be required and considered as part any first submission of reserved matters. This recommendation is subject to a s106 being completed to secure the provision of affordable housing.

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:
National Planning Policy Framework

Shropshire Core Strategy and SAMDev Plan Policies:
 CS4 - Community Hubs and Community Clusters
 CS6 - Sustainable Design and Development Principles
 CS11 - Type and Affordability of housing
 CS17 - Environmental Networks
 CS18 – Sustainable Water Management
 MD2 – Sustainable Design
 MD3 - Managing Housing Development
 MD4 - Managing Employment Development
 MD12 - Natural Environment
 Settlement: S12 - Minsterley - Pontesbury

RELEVANT PLANNING HISTORY:

18/03583/OUT Outline application for mixed use development for residential, retail and business units with associated parking (all matters reserved) NONDET 10th June 2019

Appeal

19/02724/NONDET Outline application for mixed use development for residential, retail and business units with associated parking (all matters reserved) DISMIS 10th June 2019

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Planning file 19/03734/OUT
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member Cllr Nick Hignett

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the design and external appearance of the development, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 5 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The business premises shall be used for Class B1(a) (b) and (c) only and for no other purpose including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In order to restrict the use of the premises in the interest of the amenities of the area.

5. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

Proposed noise mitigation measures to be included in the design/build and layout of the residential properties and gardens;

The landscaping reserved matters submission shall comprise of a landscaping scheme including planting plans, measures for the protection of planting while they become established and measures for the protection of any retained planting during construction works; creation of wildlife habitats and features and ecological enhancements (e.g. hedgehog-friendly gravel boards and amphibian-friendly gully pots)].

Reason: To ensure the development is of an appropriate standard and to address the potential issues of noise and disturbance and ecological enhancement.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.
- b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
- d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.
- e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

7. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

8. No development shall take place until details of the design and construction of any new roads, footways, accesses, car/HGV parking & turning facilities, together with details of the disposal of highway surface water and street lighting, have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.
Reason: To ensure a satisfactory access to the site.
9. Before any other operations are commenced, the proposed vehicular access and visibility splays, shall be provided and constructed to base course level and completed to adoptable standard as shown on the application drawings before the development is fully occupied and thereafter maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions.
Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.
10. Prior to the commencement of the development full engineering details of the proposed footway along A488 shall be submitted to and approved in writing by the Local Planning Authority. The works shall be fully implemented in accordance with the approved details before any of the dwellings it would serve are first occupied.
Reason: To ensure a satisfactory means of access to the highway.
11. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
the parking of vehicles of site operatives and visitors;
loading and unloading of plant and materials;
storage of plant and materials used in constructing the development;
the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
wheel washing facilities;
measures to control the emission of dust and dirt during construction;
a scheme for recycling/disposing of waste resulting from demolition and construction works.
Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

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

12. Prior to the first occupation of the development hereby permitted (or Prior to the commencement of the use hereby permitted) the approved visibility splay measuring 2.4 metres back from the nearside carriageway edge shall be provided to each side of the access as shown on approved drawing TC/VS/01 and such splays shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway. Reason: To ensure the provision of adequate visibility in the interests of highway safety.

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

13. Demolition, construction works and associated deliveries shall not take place outside 7.30am - 6.00pm Monday to Friday, and 8.00am - 1pm Saturdays, with no work taking place on Sundays, Bank or Public holidays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

Informatives

1. 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. The S106 may include the requirement for a financial contribution and the cost of this should be factored in before commencing the development. By signing a S106 agreement you are legally obliged to comply with its contents, irrespective of any changes to Planning Policy or Legislation.
2. 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.
3. 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 or from the Local Planning Authority. The fee required is £116 per request, and £34 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.

4. The use of soakaways should be investigated in the first instance for surface water disposal.

Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 35% for climate change. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway. Should soakaways are not feasible, drainage calculations should limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system

should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

5. Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas.

The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare Change allowance % of impermeable area

Less than 25 10

30 8

35 6

45 4

More than 50 2

Flats & apartments 0

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum.

Curtilage means area of land around a building or group of buildings which is for the private use of the occupants of the buildings.

6. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences. All vegetation clearance, tree removal and/or scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. No clearance works can take place with 5m of an active nest. If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.
7. Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs. If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the

weather is warm. Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife. The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife. All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife. Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present. If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801). Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

8. The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
9. The attention of the applicant is drawn to Section 175A(3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways. No drainage to discharge to highway Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
10. The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e. wheelie bins & recycling boxes). Specific consideration must be given to kerbside collection points, in order to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycleways and carriageways) are kept clear of

any obstruction or impediment, at all times, in the interests of public and highway safety.
<https://new.shropshire.gov.uk/planning/faqs/>

11. The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic (i.e. construction vehicles).
12. This planning permission does not authorise the applicant to:
construct any means of access over the publicly maintained highway (footway/verge) or carry out any works within the publicly maintained highway, or authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway
The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details
<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>
Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.
13. If it is the developer's intention to request Shropshire Council, as Highway Authority, to adopt the proposed roadworks as maintainable at the public expense, then details of the layout, alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations shall be submitted to: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into
<http://www.shropshire.gov.uk/hwmaint.nsf/open/7BD73DBD0D733532802574C6002E65E6>
14. Should any proposed trees or shrubs be located in close proximity of any proposed or existing public highway infrastructure (>3 m), appropriate root protection systems will need to be submitted and approved prior to construction. In order to mitigate against any future root damage to roads, footways and the utility services beneath. Also, any other landscaping/planting adjacent to the future highway will require appropriate maintenance and service arrangements, in perpetuity. In order to maintain any required visibility splays and to keep leaf litter clear of footways and drains, etc., in the interests of highway safety.

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Development Management Report

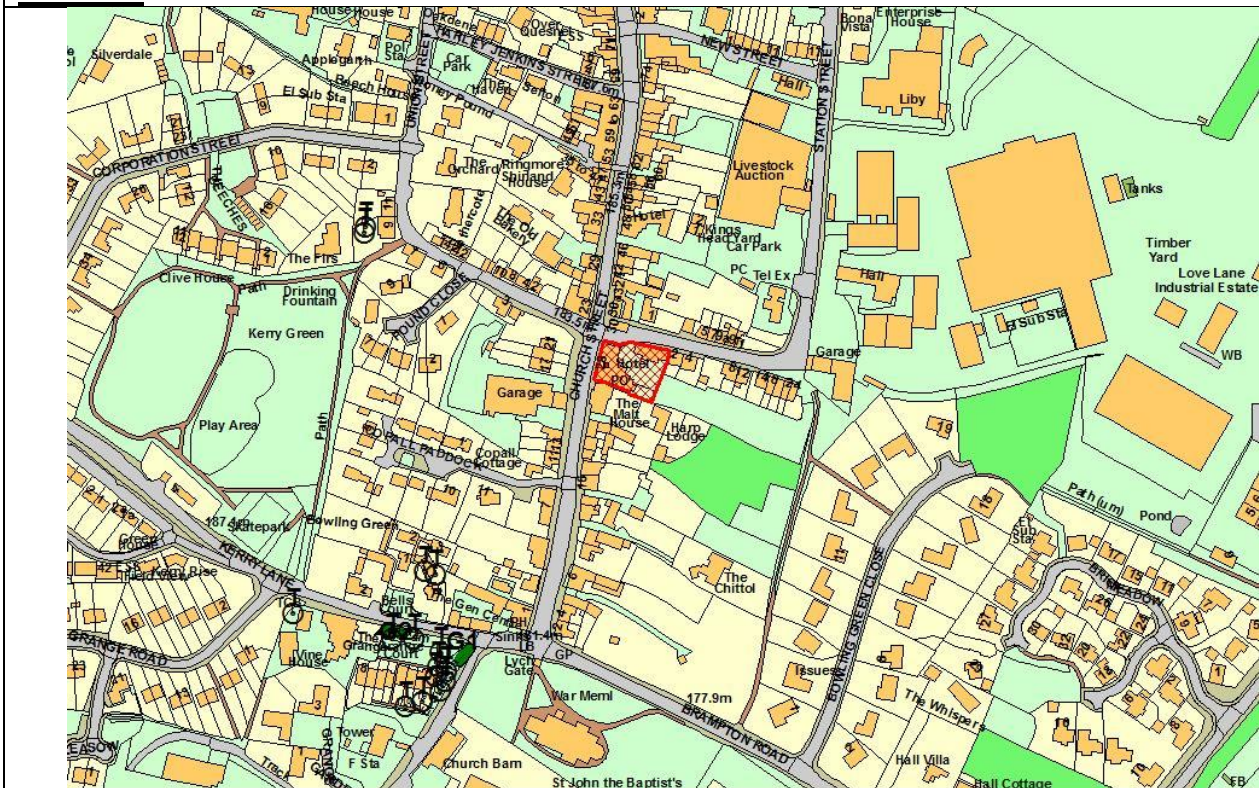
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 19/03996/FUL	Parish:	Bishops Castle
Proposal: Conversion of and alterations to public house/inn to form two dwellings (including demolition of rear extensions); conversion of and alterations to holiday accommodation block to form one dwelling (including demolition of rear extension); erection of one new dwelling		
Site Address: Boars Head Hotel Church Street Bishops Castle SY9 5AE		
Applicant: Mr D Price		
Case Officer: Trystan Williams	email: planning.southern@shropshire.gov.uk	

Grid Ref: 332339 - 288626



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Recommendation: Grant permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks full planning permission to:

- convert a public house into a pair of semi-detached, two-storey open-market dwellings following demolition of single-storey additions at the rear (east);
- convert a detached outbuilding (known as the 'Curley Tail') from four bed-and-breakfast rooms with en-suite bathrooms into one dwelling (again following demolition of a previous extension, and also including erection of an attached car port at the rear (south) and weatherboarding over the western gable end); and
- erect an entirely new 1½-storey, 82m² two-bedroom dwelling clad in timber under a gabled slate roof, within what is currently a car park behind.

1.2 The latter element replaces original plans for a pair of rendered, two-storey semi-detached houses. Certain aspects of the conversion proposals have also been amended in response to consultee comments.

1.3 The conversions also require listed building consent, to which 'sister' application 19/03997/LBC relates.

2.0 SITE LOCATION/DESCRIPTION

2.1 The Boars Head Hotel is located in Bishop's Castle's town centre and conservation area, in a 0.09-hectare plot southeast of the junction of the B4385 Church Street and Station Street. Despite its name it is perhaps more of a pub with an ancillary food and visitor accommodation offering. The principal building, containing the pub/restaurant and a first floor residential apartment, fronts Church Street to the west, and is a Grade II-listed former coaching inn of timber-framed construction dating back to the 17th Century, but refaced in stuccoed limestone during the 19th Century, and with 20th Century additions behind. The Curley Tail is a curtilage-listed former barn fronting Station Street to the north, now faced in render and synthetic stone under slate roofs stepped down at the west, and with a flat-roofed extension behind. The two buildings are separated by the entrance to the car park at their rear, in whose southeast corner the proposed new house would stand.

2.2 Although the car park is private, there is a right of entry through it into an adjacent yard used for parking by neighbours and a firm of auctioneers. North of that, and abutting the Curley Tail's east end, is a row of two-storey houses of varying ages and styles. Immediately south of the pub is Grade II-listed and part timber-framed Harp House, and on a 'back land' plot behind it, diagonally opposite the site of the proposed new dwelling, a modern two-storey house named Harp Lodge. Opposite the pub is a variety of residential and commercial properties.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 In accordance with the Council's adopted 'Scheme of Delegation', the application is referred to the planning committee since the officer recommendation of approval is contrary to an objection from the Parish Council, and the Shropshire Council Local Member has requested Committee determination. The chairman and vice chair of the south planning committee, in consultation with the Principal Officer, consider that the issues raised warrant the full committee's consideration.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee comments

4.1.1 Shropshire Council Ecology:

12/9/19 – objection:

The application triggers the need for bat survey work. A licensed ecologist should complete a preliminary roost assessment, and depending on its outcome a presence/absence survey, roost characterisation, mitigation measures, compensation and enhancement proposals, a lighting plan and a European Protected Species licence from Natural England may also be required.

4.1.2 Additionally, swifts are known to nest in the area.

4.1.3 24/10/19 – comment:

The buildings have now been surveyed by a licensed ecologist. No physical evidence of bats was found, and there is negligible potential for roosting. As a precaution, however, any permission granted should include an 'informative' advising on the legal status of bats, whilst in order to minimise disturbance to foraging or commuting bats, a condition should restrict any external lighting.

4.1.4 One old bird's nest was found in the main building. Compensatory bird boxes should therefore be secured by condition, and an informative should advise on the legal status of any active nests.

4.1.5 7/11/19 – comment:

Since the site is upstream of the River Clun Special Area of Conservation (SAC), a Habitats Regulations Assessment (HRA) has now been completed. This concludes that developments of up to ten dwellings connected to the Bishop's Castle sewage treatment works would not affect water quality in the SAC.

4.1.6 Previous comments regarding bats and nesting birds are reiterated.

4.1.7 27/11/19 – comment:

The Council's HRA has now been updated to reflect the reduction in the number of new-build dwellings proposed, but its conclusions remain unchanged. The previous comments on bats and birds also remain applicable.

4.1.8 Shropshire Council Flood and Water Management – comment:

Full surface water and foul drainage details should be secured by condition.

4.1.9 Severn Trent Water – comment:

Since the impact on the public sewerage system would be minimal, no objection is raised and no further details need be secured by condition. The applicant should, however, be informed of the possible presence of recently adopted sewers within the site area, and the statutory protection they would have.

4.1.10 Shropshire Council Highways Development Control:

27/9/19 – objection:

Along the Station Street frontage are steps leading into the pub, a basement hatch and a proposed parking space. These appear to be on land forming part of the public

highway. Either this should be stopped up, or a copy of any previous stopping up order submitted.

4.1.11 27/11/19 – comment:

No objection, subject to the development being carried out in accordance with the submitted details, and to certain conditions and informatives.

4.1.12 The amended plans omit the parking space on the Station Street frontage. Moreover, with the new-build element now reduced to one dwelling, the remaining parking provision within the site area would be sufficient. However conditions should ensure that the parking and turning areas are completed before the development is occupied, and, given the nature of the surrounding streets, secure a construction traffic management plan.

4.1.13 Informatives should advise on refuse collection arrangements, the need to avoid surface/waste water from the site discharging onto the highway or into highway drains, and the requirement for a licence for any works on or abutting highway land.

4.1.14 Bishop's Castle Town Council:

23/9/19 – neutral:

Owing to members' interests, the Council was not quorate and so was unable to discuss the application.

4.1.15 19/11/19 – objection:

- The pub's closure would spell the loss of a community asset.
- The loss of visitor accommodation could harm the local tourism economy.
- The scheme would change a building of historic interest, and also the wider street scene.
- The new dwelling's south-facing windows would overlook both of the adjacent properties.
- Local knowledge suggests drainage could be an issue.

4.1.16 Shropshire Council Historic Environment (Archaeology) – comment:

The site lies within Bishop's Castle's medieval core, on the postulated line of the town defences. It is also within a group of historic tenement plots. It therefore has moderate-to-high archaeological potential, and any underground remains are likely to be affected by the proposed development.

4.1.17 In view of this a programme of archaeological work should be secured by condition. This should include trial trenching across the area of the new-build development, informed by sufficient desk-based assessment. Depending on the results of this, a watching brief of groundworks may also be appropriate.

4.1.18 Historic England:

27/9/19 – objection:

There are concerns about the proposals on heritage grounds. It is therefore recommended that further analysis of the site and its buildings is undertaken, in order to inform a more sympathetic scheme.

4.1.19 The submitted Heritage Impact Statement says this Grade II-listed former coaching

inn is believed to date back to 1597, and was first licensed in 1642. As such it has been an integral part of the life and vitality of this small rural town for over 400 years. Although altered and adapted during the 19th and 20th centuries the building retains much of its historic interest, and contributes positively to the character and appearance of a particularly prominent part of the Bishop's Castle Conservation Area.

- 4.1.20 The Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to the preservation of the listed building and its setting, or any features of special architectural or historic interest which it possesses, and also to the desirability of preserving or enhancing the character and appearance of the conservation area. Section 16 of the National Planning Policy Framework (NPPF) highlights the need to fully understand the significance of heritage assets and to assess the impacts of development upon them. Furthermore it expects great weight to be given to conserving designated heritage assets, with any harm requiring clear and convincing justification in terms of public benefits. Particularly relevant to the proposed new-build housing, meanwhile, is Section 12, which emphasises the importance of appropriate and well-designed development sympathetic to local character and history.
- 4.1.21 Given the previous alterations to the pub, its associated outbuilding and the wider setting, there would in principle be no objection to further sympathetic adaptation. However, any changes should be underpinned by a thorough understanding of the site as a whole, and its contribution to the wider conservation area. Whilst the current Heritage Impact and Design and Access Statements are helpful, they lack the level of assessment and analysis expected for such an important building and sensitive site.
- 4.1.22 If the Council accepts the justification put forward for conversion, consideration should be given to securing a less intensive scheme with greater regard to the existing buildings' character. The new-build dwellings are considered a particularly incongruous addition to the current building complex, and would require robust justification. Analysis of the existing built fabric, supported by map regressions and an assessment of the setting, would help to inform future proposals more strongly.
- 4.1.23 14/11/19 – no objection:
In principle Historic England is satisfied with the revised proposals. Thus, provided any approval is subject to conditions to ensure a suitably high quality development, it is happy to defer to the Council's own Conservation Officer regarding the details.
- 4.1.24 Shropshire Council Affordable Housing – no objection:
There are no affordable housing obligations associated with this scheme.
- 4.1.25 Shropshire Council Historic Environment (Conservation):
30/10/19 – objection:
Subdividing the pub itself appears feasible without impacting significantly upon the building's historic fabric and character. Since there would be no alterations to the roadside elevations, its appearance within the street scene would remain largely unchanged. A nod to its history as a public house could be considered, perhaps by

retaining traditional external features such as signage. It is also noted that the scheme aims to consolidate the building back to its early 19th Century form by removing the later rear additions, which is acceptable as they do not contribute to its character.

- 4.1.26 That said, further information on the main building's historic fabric, and on the evolution of both it and the Curley Tail, may help to justify the scheme. It is also suggested that conditions should require recording of the buildings in their current form, plus full details of new internal features and finishes, including staircases.
- 4.1.27 The plans for the Curley Tail include inserting dormer windows. This would be inappropriate given the building's semi-agricultural nature, and roof lights should be used instead. Other changes to fenestration should also be minimised, with the pattern of the existing windows followed where possible. Additionally, it would be preferable to replace the current synthetic stone on the gable end with weatherboarding rather than render, whilst the proposed car port and also solar panels should be omitted.
- 4.1.28 Two new-build dwellings as currently proposed could appear overly cramped in this context. However draft amended plans show a reduction to one unit, whose design reflects a small and fairly unobtrusive outbuilding. This is considered appropriate, especially as historic mapping suggests there may once have been an outbuilding in this position. That said, its porch and solar panels should be omitted in order to achieve a simple uncluttered north elevation and roofline.
- 4.1.29 Boundary treatments between the various units should be given careful consideration. Low stone walling and soft landscaping, as found elsewhere in the town, may be more appropriate.
- 4.1.30 18/11/19 – no objection:
The amended plans and additional information now submitted take account of the previous comments. There are no further issues from a conservation perspective, and it is considered that the revised proposals generally accord with the relevant policies.
- 4.1.31 Conditions should secure precise details of both external and internal joinery (including staircases), external materials, landscaping, and features to be removed and stored pending reinstatement. They should also require recording of the existing buildings to Historic England's 'Level 2' standard, and specify Conservation-type roof lights and metal rainwater goods.

4.2 Public comments

- 4.2.1 Nineteen separate households plus the Campaign for Real Ale (CAMRA) have objected, on the following grounds:
- Loss of what was until recently, and still could be, a successful business, local employer and important community/visitor facility.
 - Applicant's reasons for closure are personal rather than commercial.

- Property initially marketed at grossly inflated price, subsequently reduced but still too high for area, and with conflicting figures and particulars. Since withdrawn from market altogether.
- Little or no consideration given to CAMRA's 'Public House Viability Test'.
- Greater scope for business diversification. Previous permission to convert former post office in pub's rear rooms into additional visitor accommodation remains unimplemented.
- Increased opening hours, new management and/or better marketing could increase business' viability. Pub closed during recent real ale trail event, and often closed at lunch times, alienating customers.
- Applicant's claims of competition from other pubs and holiday accommodation in Bishop's Castle are exaggerated. Two of the other pubs mentioned do not serve food, while some of the bed-and-breakfast businesses listed have now closed. Boars Head also offers different beers, a venue for live bands and good accessibility. In fact maintaining a choice of six unique pubs gives town a 'critical mass' for ale fans and tourists, and closure of any one would threaten the commercial centre's vitality and viability.
- Subdivision and change of use would harm listed building's historic layout, fabric and significance, and deprive general public of opportunity to appreciate it.
- Density of development too high.
- Adverse impact on conservation area.
- Proposed dwellings and their gardens too small.
- Overlooking of neighbouring properties.
- Insufficient parking provision.
- One of proposed parking spaces shown on highway land.
- Increased traffic on already busy road junction.
- Access to adjacent yard could be blocked.
- Insufficient drainage details.
- Separate change of use application should be made.

4.2.2 Three individuals support the application for the following reasons:

- Huge decline in local trade over past decade. Many people ostensibly wish to save the pub but do not actually use it.
- Current owners have made every effort to run a successful business and support local community.
- Business valued by established estate agents and marketed for over three years, including at significantly reduced price, but still without serious interest.
- Number of pubs remaining would still be proportionate to size of town.
- Strong local need for additional housing.

5.0 THE MAIN ISSUES

- Procedural matters
- Principle of development
- Affordable housing contribution
- Scale, design and impact on historic environment
- Residential amenity
- Highway safety
- Ecology and foul drainage

- Surface water drainage

6.0 OFFICER APPRAISAL

6.1 Procedural matters

6.1.1 The proposed change of use of the pub will be considered as an integral part of this full application, and does not require a separate application as one of the objectors claims.

6.2 Principle of development

6.2.1 The Council's Core Strategy Policy CS3 identifies Bishop's Castle as one of Shropshire's larger, 'sustainable' settlements, and Policy S2 of the Site Allocations and Management of Development (SAMDev) Plan sets a guideline of around 150 additional dwellings to be provided in the town throughout the period 2006-2026, on an allocated greenfield site plus 'windfall' sites within a defined development boundary. A key objective of the NPPF, meanwhile, is to boost significantly the supply of housing in general.

6.2.2 In this case the site is inside the development boundary, and adjacent to established housing as well as town centre services, amenities and employment opportunities. Moreover the numbers of new dwellings already built and permitted still leaves 'headroom' for more within the aforementioned guideline. In these respects the proposed residential development is therefore acceptable in principle.

6.2.3 Another fundamental issue is the loss of the pub and visitor accommodation. Part 8 of the NPPF says planning decisions should promote the retention of established local services and facilities, including pubs, and guard against their unnecessary loss, whilst Part 7 seeks to maintain the vitality and viability of town centres. Similarly the Council's Core Strategy Policy CS8 seeks to protect existing facilities, services and amenities which contribute to the quality of life of both residents and visitors.

6.2.4 In this case there have been clear attempts to diversify the business, for example by housing a post office branch within the main building, and using the former barn as holiday accommodation and a hairdressing salon before that. Additionally the property has been marketed by specialist agents, both locally and nationally, and on a freehold, leasehold and tenancy basis, for over three years up to August 2019, including at drastically reduced prices since January 2018. However officers do also acknowledge the community concerns regarding those points, plus the fact that the applicant and his estate agents partly attribute a recent decline in trade, and hence the business' limited appeal to prospective purchasers, to personal factors. It is therefore difficult not to conclude that the business might prove more viable under different management, if only a sale or lease could be agreed.

6.2.5 Nevertheless, for the following reasons (some of which reflect CAMRA guidance) it is, on balance, suggested that the proposed change of use would be unlikely to threaten the vitality and viability of Bishop's Castle's town centre and tourist economy, or community vibrancy, so significantly as to warrant refusing planning permission:

- Under SAMDev Policy MD10a, Bishop’s Castle (unlike larger towns) lacks a designated Primary Shopping Area where changes to non-town centre uses are necessarily resisted.
- The Boars Head has not been formally registered or nominated as an Asset of Community Value.
- Of the five other pubs in the town, at least one already has a broadly similar food offering. Meanwhile two serve ale brewed on-site, which would in all probability would remain a significant draw. Certainly the annual real ale trail and various other community/visitor events went ahead in 2019, despite the Boars Head allegedly not participating.
- Besides pubs and hotels there are other eateries in Bishop’s Castle, along with other visitor attractions and community facilities (including a theatre, swimming pool, library, town hall etc.).
- Bishop’s Castle does still offer alternative visitor accommodation despite the apparent decline, and in fact the Council has recently received planning applications for new provision in the local area. Indeed it may be that closure of the Curley Tail would stimulate further provision elsewhere in the town.
- Similarly, if demand was perceived other established pubs could change or expand their offerings to compensate for the loss of the Boars Head, or potentially further premises could open as micro-pubs, as has happened in Ludlow and Church Stretton.

6.2.6 Additionally, it is felt that some weight can be given to:

- the desirability of keeping these listed buildings in viable long-term use consistent with their conservation (the first floor of the Boars Head itself is currently somewhat underutilised, and unsuitable as guest accommodation on account of its layout);
- the high level of local need for smaller and therefore more affordable housing; and
- the NPPF’s recognition (in Paragraph 85.f)) that residential development also often plays an important role in ensuring the vitality of town centres.

6.3 **Affordable housing contribution**

6.3.1 Core Strategy Policy CS11 and an associated Supplementary Planning Document require most market housing schemes to contribute towards provision of designated affordable housing to meet specific local needs. However proposals to convert listed buildings are specifically exempted, in recognition that build costs are usually higher. In any event the requirement is now effectively superseded by the latest version of the NPPF, which states categorically (in Paragraph 63) that affordable housing provision should not be sought in connection with small-scale developments (i.e. those comprising fewer than six units in designated rural areas such as Bishop’s Castle parish). It must therefore be accepted that the Council’s policies in this respect are out-of-date and can no longer be given significant weight, meaning no contribution would be required in this instance.

6.4 **Scale, design and impact on historic environment**

6.4.1 The NPPF at section 12 places an emphasis on achieving good design in development schemes. Its themes are reflected in Core Strategy policy CS6 which seeks to ensure that all development is appropriate in scale, density, pattern and

design taking into account the local context and character, and those features that contribute to local character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev Plan policy MD2 seeks to ensure that developments respond positively to local design aspirations set out in Neighbourhood Plans, with the protection, conservation and enhancement of the historic context and character of heritage assets, their significance and setting, being sought by policy MD13.

- 6.4.2 Under Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 there is a duty placed on Local Authorities in exercising their statutory duty to have regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess. Section 72 of the same Act requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas in the exercise of planning functions. At paragraph 185 the NPPF advises that local planning authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
- 6.4.1 It is acknowledged that the proposals would spell the end of the principal listed building's centuries-old use as a public house, and clearly this would change its commercial and communal character and restrict public access. However it is not included on CAMRA's list of pubs whose interiors remain particularly important, unlike another in Bishop's Castle. Meanwhile, as mentioned already, the NPPF recognises that keeping heritage assets in viable use often helps to ensure their continued conservation. Furthermore, both Historic England and the Council's Conservation Officer are satisfied that the revised proposals would not harm any key elements of either the main building's or the Curley Tail's historic fabric, their physical character, outward appearance or setting, or the character and appearance of the wider conservation area, subject to certain conditions as set out below (including one controlling fenestration, for which only partial details have been submitted upfront). This follows the submission of a more detailed Heritage Impact Statement, the reduction to one new-build dwelling of modest scale and barn-like style appropriate to its context, plus the omission of solar panels and dormer windows on the Curley Tail. Although new boundaries between the plots would still utilise 1.8-metre fencing to ensure adequate privacy, this would not be prominent in the street scene, especially as officers recommend a condition requiring precise details of supplementary planting.
- 6.4.2 Given the above it is considered that the relevant statutory provisions and planning policies, as referenced in Historic England's initial comments, are satisfied. The proposed development would not harm the special architectural or historic interest of the listed buildings and would not detract from the character or appearance of the conservation area. The Archaeology Team's interest is also addressed, by Condition 4.
- 6.5 **Residential amenity**
- 6.5.1 Core Strategy policy CS6 seeks to safeguard neighbour amenity.

- 6.5.2 Residential use of the pub and Curley Tail should not impact unduly on neighbours' privacy or noise levels since both buildings are directly aligned with those immediately adjacent, reasonably well separated from those opposite, and already used for other, more intensive and potentially noisier purposes. The main impact would arise from the new-build dwelling, which would be more visible from the neighbouring properties. Nevertheless, being limited to 1½ storeys, and with no first floor fenestration apart from escape hatches, roof lights and a small window to light the stairs, it should not cause significant overlooking or overshadowing, especially as it would not align directly with either the Station Street properties to the north or Harp Lodge to the south, and the latter's main windows/living spaces face in other directions.
- 6.5.3 The plans appear to maintain the private right of access to the yard to the east, although in any event that is a civil matter.
- 6.5.4 The revised scheme would also provide each of the proposed dwellings with a small, but adequate and reasonably private garden (provided a bathroom window on the side of Unit 2 has frosted glazing as per suggested Condition 15), whilst the dwellings themselves would meet the national minimum space standards.
- 6.6 **Highway safety**
- 6.6.1 The NPPF, at section 9, seeks to promote sustainable transport. At paragraph... it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether:
“- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”
Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced. It seeks to achieve safe development and consequently development will only be permitted where the local road network and access to the site is capable of safely accommodating the type and scale of traffic likely to be generated.
- 6.6.2 The proposed dwellings would probably generate less traffic than the established pub and holiday lets, which utilise the same access. Moreover there are several public car parks nearby, and it is emphasised that the Highways Development Control Team has no fundamental objection following containment of the proposed parking provision on private land.
- 6.7 **Ecology and foul drainage**
- 6.7.1 Core Strategy policies CS6 and CS17, along with SAMDev Plan policy MD12, seek to ensure developments do not have an adverse impact upon protected species, and accord with the obligations under national legislation.

6.7.2 As summarised above the Ecology Team accepts that conditions and informatives would offer adequate mitigation for protected and priority species, although restricting external lighting may in fact be unreasonable given the site's established use without any such restriction in place. It also accepts that using the mains sewerage system (which has phosphate-stripping equipment) would avoid any significant impact on the River Clun SAC. In that respect the full HRA can be viewed on the 'Planning' pages of the Council website, appended to the Ecology Team's latest comments.

6.7.3 Additionally it is noted that Severn Trent Water, as the utility provider, has no objection to the use of mains sewerage. Its point about protecting any sewers within the site area can be addressed through an informative and under the Building Regulations.

6.8 Surface water drainage

6.8.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing runoff rate and not result in an increase in runoff. Although the site itself has a low flood risk, a condition requiring full surface water drainage details is reasonable in this case in order to avoid exacerbating an already higher risk of pluvial and groundwater flooding on adjacent land.

7.0 CONCLUSION

7.1 Despite some possibility of the business proving more successful under new management, and claims that it should have been marketed at an even lower price, the loss of the existing pub and holiday accommodation is considered acceptable on balance as it should not significantly affect the town's vitality and viability, or community vibrancy. The proposed new residential use and development is also acceptable in principle given the location adjacent to established housing within the town's development boundary. The scheme as amended would not harm the intrinsic significance of the listed buildings or the character and appearance of the conservation area, and there are no undue or insurmountable concerns regarding archaeology, residential amenity, highway safety, ecology or drainage. Furthermore, greater weight is given to Paragraph 63 of the updated NPPF than to the Council's own policy requirement for an affordable housing contribution. Overall, therefore, the application is felt to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice.

However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than 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**

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the community.

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

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

8.3 **Equalities**

8.3.1 The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 **FINANCIAL IMPLICATIONS**

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

10.0 **BACKGROUND**

Relevant Planning Policies:

Central Government Guidance:

National Planning Policy Framework

Shropshire Local Development Framework:

Core Strategy Policies:

CS1 - Strategic Approach
CS3 - The Market Towns and Other Key Centres
CS6 - Sustainable Design and Development Principles
CS7 - Communications and Transport
CS8 - Facilities, Services and Infrastructure Provision
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS15 - Town and Rural Centres
CS16 - Tourism, Culture and Leisure
CS17 - Environmental Networks
CS18 - Sustainable Water Management

SAMDev Plan Policies:

MD1 - Scale and Distribution of Development
MD2 - Sustainable Design
MD3 - Managing Housing Development
MD10A - Managing Town Centre Development
MD12 - Natural Environment
MD13 - Historic Environment
S2 – Bishop’s Castle Area Settlement Policy

Supplementary Planning Documents:
Type and Affordability of Housing

Relevant Planning History:

SS/1988/24/P/ & SS/1988/24/L/ – Conversion of disused bar and toilets into holiday bedroom accommodation (permitted March 1988)

SS/1/2434/P & SS/1/2435/L/ – Erection of extension to public house (permitted May 1992)

SS/1/7405/P/ & SS/1/7406/L – Erection of additional guest accommodation and demolition of boundary wall (permitted October 1997)

SS/1/00/11091/LB – Demolition of upper section of chimney (permitted June 2000)

10/01227/LBC – Replacement of window with door in north elevation, and blocking of internal doorway (permitted May 2010)

17/00726/FUL & 17/00727/LBC – Alterations to former post office to form hotel accommodation; alterations to existing porch and installation of gates to car park (permitted May 2017)

19/03997/LBC – Conversion of and alterations to public house/inn to form two dwellings (including demolition of rear extensions); conversion of and alterations to holiday accommodation block to form one dwelling (including demolition of rear extension) (pending consideration)

11.0 ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PXF8TZTDHMS00>

List of Background Papers:

Application documents available on Council website

Cabinet Member (Portfolio Holder):

Cllr Gwilym. Butler

Local Member:

Cllr Ruth Houghton

Appendices:

Appendix 1 – Conditions and Informatives

APPENDIX 1 – CONDITIONS AND INFORMATIVES

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 in strict accordance with the approved, amended plans and drawings listed below.

Reason: To define the consent and ensure a satisfactory development in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITIONS THAT REQUIRE APPROVAL BEFORE DEVELOPMENT COMMENCES

3. No development, including demolition works, shall commence until a construction method statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period, and shall include provision for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials
 - iv. the erection and maintenance of security fencing/hoardings
 - v. wheel washing facilities
 - vi. control of dust, dirt and noise emissions during construction
 - vii. timing of construction works and associated activities
 - viii. recycling/disposal of waste resulting from demolition and construction works

Reason: In the interests of highway safety, and to help safeguard the visual and residential amenities of the area, in accordance with Policies CS6 and CS7 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

4. No development, including demolition works, shall commence until the applicant/owner/developer has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI) which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any evidence associated with known archaeological features on and in the vicinity of the site is recorded/preserved satisfactorily, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since

it relates to matters which need to be confirmed before subsequent phases proceed in order to ensure a sustainable development.

5. No development shall commence until precise details of surface water drainage systems have been submitted to and approved in writing by the Local Planning Authority. These shall include:
- Percolation test results and sizing calculations for any surface water soakaways
 - Provision for installation of a silt trap or catch pit upstream of any drainage field
 - Details of any alternative or supplementary Sustainable Drainage Systems (SuDS) to be incorporated
 - A drainage layout plan

The approved drainage system(s) shall be implemented in full prior to the first use/occupation of any part of the development, and shall be retained thereafter.

Reason: To ensure that the development is provided with satisfactory means of drainage and avoid causing or exacerbating flooding or pollution on the site or elsewhere, in accordance with Policies CS6, CS17 and CS18 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

CONDITIONS THAT REQUIRE APPROVAL DURING CONSTRUCTION/PRIOR TO OCCUPATION OF THE DEVELOPMENT

6. No works in connection with the conversion of the existing buildings (including stripping of internal or external fixtures or features, and/or demolition works) shall commence until there has been submitted to and approved in writing by the local planning authority a record of those buildings and their fabric as existing, to accord with 'Level 2' standards as defined in the Historic England document 'Understanding Historic Buildings: A Guide to Good Recording Practice' (2016).

Reason: To provide an adequate record of the listed buildings' existing form and fabric, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy and Policy MD13 of the Shropshire Council Site Allocations and Management of Development Plan.

7. No works to the existing buildings shall commence until there has been submitted to and approved in writing by the local planning authority:
- a schedule of existing features and fabric of potential architectural or historic interest (including windows, doors, ornamental plaster, joinery, staircases, fireplaces etc.) which are to be removed, altered, repositioned or replaced; and
 - a method statement for these works.

The works shall thereafter be undertaken and completed in strict accordance with the approved details.

Reason: To safeguard the architectural and historic interest, character and fabric of the listed buildings, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

8. Prior to their use/application, samples/precise details of all external materials/finishes, including those for any repair works, shall be submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details and retained thereafter.

Reason: To safeguard the character and appearance of the listed buildings and the Bishop's Castle Conservation Area, in accordance with Policies CS5, CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

9. No above-ground development in connection with the new-build dwelling hereby permitted shall commence until samples/details of its roofing materials and finishes, to include detailing of ridges, eaves, valleys, verges and verge undercloaks as appropriate, have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details and thereafter retained.

Reason: To help safeguard the settings of the adjacent listed buildings and the character and appearance of the Bishop's Castle Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

10. No new or replacement windows or doors, or new/altered internal joinery (including staircases) within the existing buildings, shall be installed until precise details of their/its form and style (including details of glazing bars, mullions, sill mouldings and surface treatments/decorative finishes) have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with approved details and thereafter retained.

Reason: To safeguard the character, appearance and setting of the listed buildings, and the character and appearance of the Bishop's Castle Conservation Area, in accordance with Policies CS5, CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

11. All roof lights included in the development hereby permitted shall be of the traditional flush-fitting 'Conservation' type, in accordance with precise product details which shall be submitted to and approved in writing by the Local Planning Authority prior to installation. They shall be retained thereafter for the lifetime of the development.

Reason: To safeguard the character and appearance of the listed buildings and the Bishop's Castle Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

12. Prior to the first use/occupation of any part of the development hereby permitted, artificial nesting opportunities for wild birds shall be provided at the site in accordance with details which shall first be submitted to and approved in writing by the local planning authority. These shall include a minimum of three nesting boxes or integrated 'bricks' suitable for sparrows (32mm hole, terrace design) and small birds (32mm hole, standard design), which shall be retained for the lifetime of the development.

Reason: To maintain and enhance nesting opportunities for wild birds, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

13. The site shall be landscaped in accordance with the approved, amended block plan, and with precise details/schedules/specifications of the proposed planting, which shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any part of the development. All fences, hardstandings and other hard landscaping features comprised therein shall be completed prior to the first occupation of each associated dwelling, whilst the agreed planting/seeding shall be completed during the first planting/seeding seasons following the substantial completion or first occupation of the associated dwelling, whichever is the sooner. Thereafter all hard landscaping features shall be retained in accordance with the approved details, whilst any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To help safeguard the setting of the listed buildings and the character and appearance of the Bishop's Castle Conservation Area, and in the interests of residential amenity, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITIONS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

14. All new/replacement gutters, down pipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the character and appearance of the listed buildings in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

15. The first floor bathroom window on the north elevation of the proposed dwelling/unit 2 shall be fitted with obscured/frosted glazing and a mechanism to restrict its opening to a maximum of 450mm. It shall thereafter be retained in that condition.

Reason: To help ensure a reasonable standard of privacy in the adjoining unit and its garden, in accordance with Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy.

16. Prior to the first occupation of the new dwellings, their respective vehicle parking and turning areas shall be laid out and surfaced in accordance with the approved plans. These shall thereafter be retained in that condition for their intended purposes throughout the lifetime of the development.

Reason: In the interests of highway safety, in accordance with Policies CS6 and CS7 of the Shropshire Local Development Framework Adopted Core Strategy.

17. Notwithstanding the provisions of Schedule 2, Parts 1 and 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order

modifying, revoking or re-enacting that Order), no external alterations, extension, garage, car port, other building/structure, fence, wall, gate or hardstanding shall be erected, installed or provided on or around the site without a further express planning permission having first been obtained from the Local Planning Authority.

Reason: To help safeguard the settings of the listed buildings and the character and appearance of the Bishop's Castle Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

INFORMATIVES

1. Your attention is drawn specifically to the conditions above which require the Local Planning Authority's prior approval of further details. In accordance with Article 27 of the Town and Country Planning (Development Management Procedure) Order 2015, a fee (currently £116) is payable to the Local Planning Authority for each request to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority.

Where conditions require the submission of details for approval before development commences or proceeds, at least 21 days' notice is required in order to allow proper consideration to be given.

Failure to discharge conditions at the relevant stages will result in a contravention of the terms of this permission. Any commencement of works may be unlawful and the Local Planning Authority may consequently take enforcement action.

2. The Council's Archaeological Advisor advises that the programme of archaeological work required under Condition 4 above should include an initial evaluation in the form of trial trenching on the site of the proposed new-build dwelling, informed by appropriate desk-based research, and, depending on the results of that evaluation, further mitigation as appropriate. As a minimum the latter is likely to involve an archaeological watching brief on the final stages of demolition works and the excavation of the current car park surface. If you require further clarification please contact Charlotte Orchard (charlotte.orchard@shropshire.gov.uk).
3. This planning permission should be read in conjunction with listed building consent No. 19/03997/LBC, to which further/alternative conditions may be attached.
4. This development may be liable to a payment under the Community Infrastructure Levy (CIL) which was introduced by Shropshire Council with effect from 1st January 2012. For further information please contact the Council's CIL team (cil@shropshire.gov.uk).
5. This planning permission does not authorise the applicant to:
 - construct any means of access over the publicly maintained highway (including any footway or verge);
 - carry out any works within the publicly maintained highway;
 - authorise the laying of private apparatus within the confines of the public highway, including any a new utility connection; or

- disturb any ground or structures supporting or abutting the publicly maintained highway.

Before carrying out any such works the developer must obtain a licence from Shropshire Council's Street Works Team. For further details see <https://www.shropshire.gov.uk/street-works/street-works-application-forms/>.

Please note that Shropshire Council requires at least three months' notice of the developer's intention to commence any works affecting the public highway, in order to allow time for the granting of the appropriate licence/permit and/or agreement of a specification and approved contractor for the works.

6. This planning permission does not authorise any right of passage over, or the obstruction, realignment, reduction in width, resurfacing or other alteration of, any private driveway or right of access. Before carrying out any such operation you should first satisfy yourself that you have the necessary consent from the landowner(s) and any other affected party, if necessary by taking legal advice.
7. If the vehicular access and/or parking/turning areas would slope towards the public highway, surface water run-off should be intercepted and disposed of appropriately. It is not permissible for surface water to drain onto the public highway or into highway drains.
8. Before any new connection to the public mains sewer is made, including any indirect connection or reuse of an existing connection, consent from the service provider must be obtained.
9. There may be a public sewer within the site boundary. Public sewers have statutory protection and cannot be built over or diverted without consent. In many cases where development is proposed within three metres of a public sewer, Severn Trent Water can direct the building control officer to decline an approval under the Building Regulations. You are therefore advised to discuss the proposals with Severn Trent Water at an early opportunity.
10. All species of bat found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). Should a bat be discovered on site at any point during the course of development work must halt and Natural England should be contacted for advice.
11. Ideally, in order to minimise disturbance to bats (which are European protected species), any external lighting at the site should be designed to take into account the advice set out in the Bat Conservation Trust document 'Bats and Lighting in the UK'.
12. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks or on which fledged chicks are still dependent. If possible all demolition, clearance and/or conversion work associated with the approved scheme should be carried out outside the nesting season, which runs from March to September inclusive. If it is necessary for work to commence during the nesting season a pre-commencement inspection of buildings

and vegetation for active nests should be carried out. If vegetation is not obviously clear of nests an experienced ecologist should be called in to carry out the check. Only if no active nests are present should work be allowed to commence.

13. 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 38.

Development Management Report

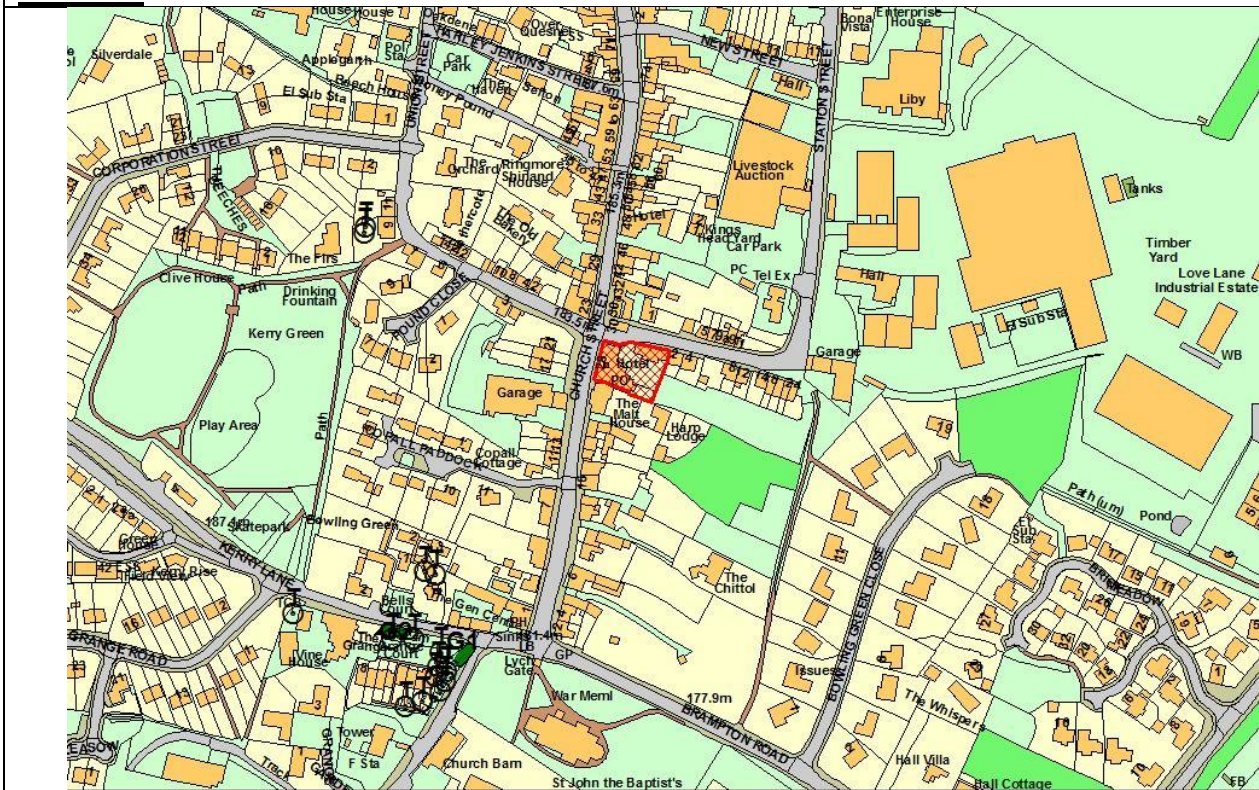
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 19/03997/LBC	Parish:	Bishops Castle
Proposal: Conversion of and alterations to public house/inn to form two dwellings (including demolition of rear extensions); conversion of and alterations to holiday accommodation block to form one dwelling (including demolition of rear extension)		
Site Address: Boars Head Hotel Church Street Bishops Castle SY9 5AE		
Applicant: Mr D Price		
Case Officer: Trystan Williams	email: planning.southern@shropshire.gov.uk	

Grid Ref: 332339 - 288626



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Recommendation: Grant consent subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This is the listed building consent counterpart of planning application 19/03996/FUL. It is concerned only with those aspects of the scheme which would affect the listed buildings themselves, specifically the physical works involved in:

- converting the public house into a pair of semi-detached, two-storey dwellings following demolition of single-storey additions at the rear (east); and
- converting the detached outbuilding (known as the 'Curley Tail') from four bed-and-breakfast rooms with en-suite bathrooms into one dwelling (again following demolition of a previous extension, and also including erection of an attached car port at the rear (south) and weatherboarding over the western gable end).

Certain aspects have been amended in response to consultee comments.

1.2 A further proposal to erect an entirely new dwelling (reduced from initial plans for two) on what is currently a car park behind is only relevant to the planning application.

2.0 SITE LOCATION/DESCRIPTION

2.1 The Boars Head Hotel is located in Bishop's Castle's town centre and conservation area, southeast of the junction of Church Street and Station Street. The principal building, containing a pub/restaurant and a first floor residential apartment, fronts Church Street to the west, and is a Grade II-listed former coaching inn of timber-framed construction dating back to the 17th Century, but refaced in stuccoed limestone during the 19th Century, and with 20th Century additions behind. The Curley Tail is a curtilage-listed former barn fronting Station Street to the north, now faced in render and synthetic stone under slate roofs stepped down at the west, and with a flat-roofed extension behind.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 In accordance with the Council's adopted 'Scheme of Delegation', the application is referred to the planning committee since the officer recommendation of approval is contrary to an objection from the Parish Council, and because Shropshire Council's Local Member and the chairman and vice chair of its planning committee consider that the issues raised warrant the full committee's consideration.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee comments

4.1.1 Shropshire Council Ecology:

12/9/19 – objection:

The application triggers the need for bat survey work. A licensed ecologist should complete a preliminary roost assessment, and depending on its outcome a presence/absence survey, roost characterisation, mitigation measures, compensation and enhancement proposals, a lighting plan and a European Protected Species licence from Natural England may also be required.

4.1.2 Additionally, swifts are known to nest in the area.

4.1.3 24/10/19 – comment:

The buildings have now been surveyed by a licensed ecologist. No physical evidence of bats was found, and there is negligible potential for roosting. As a precaution,

however, any permission granted should include an ‘informative’ advising on the legal status of bats, whilst in order to minimise disturbance to foraging or commuting bats, a condition should restrict any external lighting.

- 4.1.4 One old bird’s nest was found in the main building. Compensatory bird boxes should therefore be secured by condition, and an informative should advise on the legal status of any active nests.
- 4.1.5 7/11/19 – comment:
Since the site is upstream of the River Clun Special Area of Conservation (SAC), a Habitats Regulations Assessment (HRA) has now been completed. This concludes that developments of up to ten dwellings connected to the Bishop’s Castle sewage treatment works would not affect water quality in the SAC.
- 4.1.6 Previous comments regarding bats and nesting birds are reiterated.
- 4.1.7 27/11/19 – comment:
The Council’s HRA has now been updated to reflect the reduction in the number of new-build dwellings proposed, but its conclusions remain unchanged. The previous comments on bats and birds also remain applicable.
- 4.1.8 Shropshire Council Highways Development Control:
27/9/19 – objection:
Along the Station Street frontage are steps leading into the pub, a basement hatch and a proposed parking space. These appear to be on land forming part of the public highway. Either this should be stopped up, or a copy of any previous stopping up order submitted.
- 4.1.9 Bishop’s Castle Town Council:
23/9/19 – neutral:
Owing to members’ interests, the Council was not quorate and so was unable to discuss the application.
- 4.1.10 19/11/19 – objection (to associated planning application):
- The pub’s closure would spell the loss of a community asset.
 - The loss of visitor accommodation could harm the local tourism economy.
 - The scheme would change a building of historic interest, and also the wider street scene.
 - The new dwelling’s south-facing windows would overlook both of the adjacent properties.
 - Local knowledge suggests drainage could be an issue.
- 4.1.11 Shropshire Council Historic Environment (Archaeology) – comment:
See comments on associated planning application.
- 4.1.12 Historic England:
27/9/19 – objection:
There are concerns about the proposals on heritage grounds. It is therefore recommended that further analysis of the site and its buildings is undertaken, in order

to inform a more sympathetic scheme.

- 4.1.13 The submitted Heritage Impact Statement says this Grade II-listed former coaching inn is believed to date back to 1597, and was first licensed in 1642. As such it has been an integral part of the life and vitality of this small rural town for over 400 years. Although altered and adapted during the 19th and 20th centuries the building retains much of its historic interest, and contributes positively to the character and appearance of a particularly prominent part of the Bishop's Castle Conservation Area.
- 4.1.14 The Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to the preservation of the listed building and its setting, or any features of special architectural or historic interest which it possesses, and also to the desirability of preserving or enhancing the character and appearance of the conservation area. Section 16 of the National Planning Policy Framework (NPPF) highlights the need to fully understand the significance of heritage assets and to assess the impacts of development upon them. Furthermore it expects great weight to be given to conserving designated heritage assets, with any harm requiring clear and convincing justification in terms of public benefits. Particularly relevant to the proposed new-build housing, meanwhile, is Section 12, which emphasises the importance of appropriate and well-designed development sympathetic to local character and history.
- 4.1.15 Given the previous alterations to the pub, its associated outbuilding and the wider setting, there would in principle be no objection to further sympathetic adaptation. However, any changes should be underpinned by a thorough understanding of the site as a whole, and its contribution to the wider conservation area. Whilst the current Heritage Impact and Design and Access Statements are helpful, they lack the level of assessment and analysis expected for such an important building and sensitive site.
- 4.1.16 If the Council accepts the justification put forward for conversion, consideration should be given to securing a less intensive scheme with greater regard to the existing buildings' character. The new-build dwellings are considered a particularly incongruous addition to the current building complex, and would require robust justification. Analysis of the existing built fabric, supported by map regressions and an assessment of the setting, would help to inform future proposals more strongly.
- 4.1.17 14/11/19 – no objection:
In principle Historic England is satisfied with the revised proposals. Thus, provided any approval is subject to conditions to ensure a suitably high quality development, it is happy to defer to the Council's own Conservation Officer regarding the details.
- 4.1.18 Society for the Protection of Ancient Buildings – objection:
The pub's change of use would be regretful given its long history and prominent role in this small market town. That said, there is not necessarily any objection in principle to the proposed residential use if a sympathetic scheme of conversion can be achieved.

- 4.1.19 Whilst the submitted Heritage Impact Statement provides some useful information, it lacks sufficiently detailed assessment and analysis to inform an understanding of the two buildings' significance, and the scheme's potential impacts on that significance. Neither does not provide clear and convincing justification for the proposed works. A more detailed appraisal using appropriate expertise is therefore recommended, and this should, in turn, inform the proposed design approach. In its current form the application should be withdrawn or refused.
- 4.1.20 Shropshire Council Historic Environment (Conservation):
30/10/19 – objection:
Subdividing the pub itself appears feasible without impacting significantly upon the building's historic fabric and character. Since there would be no alterations to the roadside elevations, its appearance within the street scene would remain largely unchanged. A nod to its history as a public house could be considered, perhaps by retaining traditional external features such as signage. It is also noted that the scheme aims to consolidate the building back to its early 19th Century form by removing the later rear additions, which is acceptable as they do not contribute to its character.
- 4.1.21 That said, further information on the main building's historic fabric, and on the evolution of both it and the Curley Tail, may help to justify the scheme. It is also suggested that conditions should require recording of the buildings in their current form, plus full details of new internal features and finishes, including staircases.
- 4.1.22 The plans for the Curley Tail include inserting dormer windows. This would be inappropriate given the building's semi-agricultural nature, and roof lights should be used instead. Other changes to fenestration should also be minimised, with the pattern of the existing windows followed where possible. Additionally, it would be preferable to replace the current synthetic stone on the gable end with weatherboarding rather than render, whilst the proposed car port and also solar panels should be omitted.
- 4.1.23 Two new-build dwellings as currently proposed could appear overly cramped in this context. However draft amended plans show a reduction to one unit, whose design reflects a small and fairly unobtrusive outbuilding. This is considered appropriate, especially as historic mapping suggests there may once have been an outbuilding in this position. That said, its porch and solar panels should be omitted in order to achieve a simple uncluttered north elevation and roofline.
- 4.1.24 Boundary treatments between the various units should be given careful consideration. Low stone walling and soft landscaping, as found elsewhere in the town, may be more appropriate.
- 4.1.25 18/11/19 – no objection:
The amended plans and additional information now submitted take account of the previous comments. There are no further issues from a conservation perspective, and it is considered that the revised proposals generally accord with the relevant policies.

4.1.26 Conditions should secure precise details of both external and internal joinery (including staircases), external materials, landscaping, and features to be removed and stored pending reinstatement. They should also require recording of the existing buildings to Historic England's 'Level 2' standard, and specify Conservation-type roof lights and metal rainwater goods.

4.2 **Public comments**

4.2.1 Nine separate households, the Bishop's Castle Civic Society and the Campaign for Real Ale (CAMRA) have objected on the following grounds:

- Loss of what was until recently, and still could be, a successful business, local employer and important community/visitor facility.
- Applicant's reasons for closure are personal rather than commercial.
- Property initially marketed at grossly inflated price, subsequently reduced but still too high for area, and with conflicting figures and particulars. Since withdrawn from market altogether.
- Little or no consideration given to CAMRA's 'Public House Viability Test'.
- Greater scope for business diversification. Previous permission to convert former post office in pub's rear rooms into additional visitor accommodation remains unimplemented.
- Increased opening hours, new management and/or better marketing could increase business' viability. Pub closed during recent real ale trail event, and often closed at lunch times, alienating customers.
- Applicant's claims of competition from other pubs and holiday accommodation in Bishop's Castle are exaggerated. Two of the other pubs mentioned do not serve food, while some of the bed-and-breakfast businesses listed have now closed. Boars Head also offers different beers, a venue for live bands and good accessibility. In fact maintaining a choice of six unique pubs gives town a 'critical mass' for ale fans and tourists, and closure of any one would threaten the commercial centre's vitality and viability.
- Subdivision and change of use would harm listed building's historic layout, fabric and significance, and deprive general public of opportunity to appreciate it.
- Density of development too high.
- Adverse impact on conservation area.
- Archaeological features likely to be disturbed.
- Proposed dwellings and their gardens too small.
- Overlooking of neighbouring properties.
- Insufficient parking provision.
- One of proposed parking spaces shown on highway land.
- Increased traffic on already busy road junction.
- Residents' and local business' access to adjacent yard could be blocked.
- Insufficient drainage details.

4.2.2 Two individuals support the application for the following reasons:

- Town would still offer a wide selection of places for people to eat, drink and stay.
- If business no longer viable, securing a new use for the historic building would be beneficial.
- Pub's historic frontage would remain unchanged, whilst proposed alterations at rear well designed and in-keeping.

5.0 THE MAIN ISSUES

- Procedural matters
- Impact on listed buildings
- Ecology

6.0 OFFICER APPRAISAL

6.1 Procedural matters

6.1.1 Since the relevant issues here are largely confined to the physical effects on the listed buildings themselves, other matters such as economic and social impacts of closing the pub, the principle of new housing in this location, plus archaeology, the wider conservation area, highway safety, residential amenity and drainage, need to be considered separately under the associated planning application. It is therefore conceivable that members of the planning committee could reach different decisions on the two applications.

6.2 Impact on listed buildings

6.2.1 The NPPF at section 12 places an emphasis on achieving good design in development schemes. Its themes are reflected in Core Strategy policy CS6 which seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character, and those features that contribute to local character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev Plan policy MD2 seeks to ensure that developments respond positively to local design aspirations set out in Neighbourhood Plans, with the protection, conservation and enhancement of the historic context and character of heritage assets, their significance and setting, being sought by policy MD13.

6.2.2 Under Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 there is a duty placed on Local Authorities in exercising their statutory duty to have regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess. At paragraph 185 the NPPF advises that local planning authorities should take into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

6.2.1 It is acknowledged that the proposals would spell the end of the principal listed building's centuries-old use as a public house, and clearly this would change its commercial and communal character and restrict public access. However the NPPF recognises that keeping heritage assets in viable long-term use often helps to ensure their continued conservation, and some weight can be given to this, especially as the building's first floor is already underutilised, and unsuitable as guest accommodation on account of its layout. Furthermore, both Historic England and the Council's Conservation Officer are satisfied that the revised proposals would not harm any key elements of either the main building's or the Curley Tail's historic fabric, physical character or outward appearance, subject to certain conditions as set out below (including one controlling fenestration, for which only partial details have been

provided upfront). This follows the submission of a more detailed Heritage Impact Statement and plans and sections for the pub, plus the omission of solar panels and dormer windows on the Curley Tail. Although new boundaries between the plots would still utilise 1.8-metre fencing to ensure adequate privacy, again landscaping and its impact on the listed buildings' setting are matters to be considered separately under the planning application.

6.2.2 Given the above it is considered that the relevant statutory provisions and planning policies, as referenced in Historic England's initial comments, are satisfied.

6.3 **Ecology**

6.3.1 Notwithstanding Paragraph 6.1.1, the Council is legally obliged to have regard to biodiversity when exercising *any* of its statutory functions, including determining applications for listed building consent.

6.3.2 Here, as summarised above, the Ecology Team accepts that conditions and informatives would offer adequate mitigation for protected and priority species, although restricting external lighting may in fact be unreasonable given the site's established use without any such restriction in place. It also accepts that using the mains sewerage system (which has phosphate-stripping equipment) would avoid any significant impact on the River Clun SAC. In that respect the full HRA can be viewed on the 'Planning' pages of the Council website, appended to the Ecology Team's latest comments.

7.0 **CONCLUSION**

7.1 The scheme would secure the listed buildings in viable long-term use, and the amended plans would not harm their intrinsic significance. There are no undue concerns regarding ecology, whilst other issues will be addressed under the associated planning application. This application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

8.0 **RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

8.1 **Risk management**

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than 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**

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the community.

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

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

8.3 **Equalities**

8.3.1 The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 **FINANCIAL IMPLICATIONS**

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

10.0 **BACKGROUND**

Relevant Planning Policies:

Central Government Guidance:

National Planning Policy Framework

Shropshire Local Development Framework:

Core Strategy Policies:

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

SAMDev Plan Policies:

MD2 - Sustainable Design

MD12 - Natural Environment

MD13 - Historic Environment

Relevant Planning History:

SS/1988/24/P/ & SS/1988/24/L/ – Conversion of disused bar and toilets into holiday bedroom accommodation (permitted March 1988)

SS/1/2434/P & SS/1/2435/L/ – Erection of extension to public house (permitted May 1992)

SS/1/7405/P/ & SS/1/7406/L – Erection of additional guest accommodation and demolition of boundary wall (permitted October 1997)

SS/1/00/11091/LB – Demolition of upper section of chimney (permitted June 2000)

10/01227/LBC – Replacement of window with door in north elevation, and blocking of internal doorway (permitted May 2010)

17/00726/FUL & 17/00727/LBC – Alterations to former post office to form hotel accommodation; alterations to existing porch and installation of gates to car park (permitted May 2017)

19/03996/FUL – Conversion of and alterations to public house/inn to form two dwellings (including demolition of rear extensions); conversion of and alterations to holiday accommodation block to form one dwelling (including demolition of rear extension); erection of one new dwelling PDE

11.0 ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PXF8U7TDHMT00>

<p>List of Background Papers: Application documents available on Council website</p>
<p>Cabinet Member (Portfolio Holder): Cllr Gwilym. Butler</p>
<p>Local Member: Cllr Ruth Houghton</p>
<p>Appendices: Appendix 1 – Conditions and Informatives</p>

APPENDIX 1 – CONDITIONS AND INFORMATIVES

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 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (As amended)

2. The development shall be carried out in strict accordance with the approved, amended plans and drawings listed below.

Reason: To define the consent and ensure a satisfactory development in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITIONS THAT REQUIRE APPROVAL DURING CONSTRUCTION/PRIOR TO OCCUPATION OF THE DEVELOPMENT

3. No works in connection with the conversion of the existing buildings (including stripping of internal or external fixtures or features, and/or demolition works) shall commence until there has been submitted to and approved in writing by the local planning authority a record of those buildings and their fabric as existing, to accord with 'Level 2' standards as defined in the Historic England document 'Understanding Historic Buildings: A Guide to Good Recording Practice' (2016).

Reason: To provide an adequate record of the listed buildings' existing form and fabric, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy and Policy MD13 of the Shropshire Council Site Allocations and Management of Development Plan.

4. No works to the existing buildings shall commence until there has been submitted to and approved in writing by the local planning authority:
 - a schedule of existing features and fabric of potential architectural or historic interest (including windows, doors, ornamental plaster, joinery, staircases, fireplaces etc.) which are to be removed, altered, repositioned or replaced; and
 - a method statement for these works.

The works shall thereafter be undertaken and completed in strict accordance with the approved details.

Reason: To safeguard the architectural and historic interest, character and fabric of the listed buildings, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

5. Prior to their use/application, samples/precise details of all external materials/finishes, including those for any repair works, shall be submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details and retained thereafter.

Reason: To safeguard the character and appearance of the listed buildings, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

6. No new or replacement windows or doors, or new/altered internal joinery (including staircases), shall be installed until precise details of their/its form and style (including details of glazing bars, mullions, sill mouldings and surface treatments/decorative finishes) have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with approved details and thereafter retained.

Reason: To safeguard the fabric, character and appearance of the listed buildings, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

7. All roof lights included in the development hereby permitted shall be of the traditional flush-fitting 'Conservation' type, in accordance with precise product details which shall be submitted to and approved in writing by the Local Planning Authority prior to installation. They shall be retained thereafter for the lifetime of the development.

Reason: To safeguard the character and appearance of the listed buildings, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

8. Prior to the first use/occupation of any part of the development hereby permitted, artificial nesting opportunities for wild birds shall be provided at the site in accordance with details which shall first be submitted to and approved in writing by the local planning authority. These shall include a minimum of three nesting boxes or integrated 'bricks' suitable for sparrows (32mm hole, terrace design) and small birds (32mm hole, standard design), which shall be retained for the lifetime of the development.

Reason: To maintain and enhance nesting opportunities for wild birds, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITIONS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

9. All new/replacement gutters, down pipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the character and appearance of the listed buildings in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

INFORMATIVES

1. Your attention is drawn specifically to the conditions above which require the Local Planning Authority's prior approval of further details. Requests to discharge these

conditions are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority.

Where conditions require the submission of details for approval before work commences, at least 21 days' notice is required in order to allow proper consideration to be given.

Failure to discharge conditions at the relevant stages 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.

2. This listed building consent should be read in conjunction with planning permission No. 19/03996/FUL, to which further/alternative conditions are attached.
3. All species of bat found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). Should a bat be discovered on site at any point during the course of development work must halt and Natural England should be contacted for advice.
4. Ideally, in order to minimise disturbance to bats (which are European protected species), any external lighting at the site should be designed to take into account the advice set out in the Bat Conservation Trust document 'Bats and Lighting in the UK'.
5. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks or on which fledged chicks are still dependent. If possible all demolition, clearance and/or conversion work associated with the approved scheme should be carried out outside the nesting season, which runs from March to September inclusive. If it is necessary for work to commence during the nesting season a pre-commencement inspection of buildings and vegetation for active nests should be carried out. If vegetation is not obviously clear of nests an experienced ecologist should be called in to carry out the check. Only if no active nests are present should work be allowed to commence.
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 38.

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Development Management Report

Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 19/04680/OUT	Parish:	Worthen With Shelve
Proposal: Outline application for the erection of 1No dwelling and garage to include access		
Site Address: Proposed Dwelling, Bromlow, Minsterley Shropshire		
Applicant: Mr Marcus Ashley		
Case Officer: Cathryn Robinson/Richard Fortune	email: planning.southern@shropshire.gov.uk	

Grid Ref: 332242 - 301472



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0	THE PROPOSAL
1.1	This application seeks outline permission for the erection of one dwelling, with an associated garage, to include access. All other matters – layout, scale, appearance and landscaping, are matters reserved for later approval in the event of outline planning permission being granted. The proposed access would be positioned at the eastern end of the site road frontage and would require the removal of a small hawthorn tree. The access gate would be set back 5 metres from the public highway, with a splayed entrance area formed. There would be 43m by 2.4m visibility splays on either side.
1.2	The illustrative site layout shows an ‘L’ shaped dwelling positioned approximately centrally on the square plot, with the principal elevation facing east onto a forecourt parking and turning area. A detached double garage is shown close to the south east corner of the site. The hedgerow along the northern site boundary with the road would be along the visibility splay lines, with a post and rail fence enclosing the other garden boundaries. The illustrative details also show a septic tank positioned in the south western corner of the proposed garden area, with the associated soakaway in the field area to the west.
2.0	SITE LOCATION/DESCRIPTION
2.1	The development site is a field, currently used as agricultural land, located within the loose-knit settlement of Bromlow. The plot all but borders the overflow carparking provision for neighbouring hotel Abels Harp. The development site falls within the Shropshire Hills Area of Outstanding Natural Beauty (AONB).
3.0	REASON FOR COMMITTEE DETERMINATION OF APPLICATION
3.1	The Parish Council have provided views contrary to the Officers recommendation. The Local Member view concurs with that off the Parish Council. Per the Councils adopted Scheme of Delegation the application, the application has been discussed with the Chair and Vice Chair of planning committee who determined that a committee determination would be appropriate for this application.
4.0	Community Representations
4.1	- Consultee Comments
4.1.1	Worthen with Shelve Parish Council Worthen with Shelve Parish Council strongly object to the application. This isolated site is not considered to be infill or form part of the Bromlow Cluster. Therefore this Parish Council consider this site as open countryside.

This parish council has very real concerns of the very loose definition of infill which has been used to justify the granting of planning consent in highly inappropriate locations in this parish, a vast majority of which sits in a nationally protected landscape. Regrettably this problem has been made worse by the drafting adopted in numerous pre-application planning advice letters issued over the last few years which have repeatedly encouraged applicants to try to use this loose definition to their advantage. We are mindful that the implementation of the Cluster and Settlement Policy has led to repeated development outcomes at odds with the original aspirations of this policy, in many locations across the county and would respectfully request that a more conventional definition of infill is adopted.

The proposed dwelling is sited in an exposed setting and it is considered that the development would have an adverse visual impact on the landscape quality, character and setting of the Shropshire Hills AONB. The general openness and lack of development is a feature of the landscape and makes a positive contribution to the character and appearance of the area. Any new development would appear visually distinct in the landscape setting.

There are concerns with regards to access to the site.

A Local Implementation Plan was put in place by the Parish Council based on evidence gathered and this document now sits within the Parish Plan.

Worthen with Shelve has been included as a component of a proposed 'Community Cluster' within the SAMDev 'Revised Preferred Options' report for the Bishop's Castle area. A sustainable growth target of 60 houses up to and including 2026 for the whole of the Parish has been established, with a community preference of estates of no more than 5 houses and a maximum of 20 houses to be built in each 1/3 of the plan period. These open market properties should be delivered through infill and windfall. The Parish Council are mindful that an appropriate mix of housing for the community is required and are encouraging the growth of the parish in a staged and sustainable manner.

At the time of writing, Worthen with Shelve Parish Council have been notified that a total of 26 permissions, some 30% above our target delivery for open market housing, have been granted in the Hope Ward with further applications pending consideration throughout the parish. A delivery target of 15 new open market properties for the Hope ward was indicated by this Parish. It appears that our sustainable growth target has not been adhered to across the parish.

These permissions conflict with the number of permissions expected to have been granted at this stage of the SAMDev, Parish Plan and the LIP up to and including 2026. The Parish Council is mindful that the parish plan and SAMDev delivery has been compromised due to the number of permissions granted by Shropshire Council. This is not in line with the agreed delivery targets in these core documents. This strategy has not been given sufficient weight in the context of sustainably delivery in this parish.

The pre-planning advice notes 'Bromlow is a small settlement with few services and

	<p>facilities of its own besides a pub. However, its inclusion as part of a Community Cluster under SAMDev Policies MD1 and S2 implies that the location in general is sustainable and carries significant weight'. This parish Council does not agree with this statement, the failure to deliver the right type of housing in this parish has led to the relocation of two of our primary schools, as well as the closure of a village shop and post office. This Parish Council has been repeatedly ignored when responding to Planning Applications. This has led to an abundance of executive type houses, which has not delivered the correct type of housing for our parish (detailed in the Parish Plan, Local Implementation and recent Right Home, right Place Survey) to enable it to retain and grow valuable services in a sustainable manner.</p> <p>This Parish Council has today formally notified Shropshire Council as part of the ongoing Local Plan review that they would like all cluster settlements to be reverted to open countryside with immediate effect. Weight should be given to this notification.</p>
<p>4.1.2</p>	<p>SUDs No objection, see decision notice where conditions and informatives are recommended.</p>
<p>4.1.3</p>	<p>Shropshire Hills AONB Partnership The Shropshire Hills AONB Partnership notes that this application affects the nationally designated area and provides general advice on legal and policy considerations for decisions affecting the AONB. The AONB designation remains a matter for the Council to take fully into consideration, fulfilling its statutory duty in respect of the AONB, in reaching a decision on the application.</p>
<p>4.1.4</p>	<p>WSP on behalf of SC Highways <u>23.12.19</u> Confirmation has been received that the hawthorn tree that could obscure visibility is to be removed.</p> <p>As mentioned in the Highway Advice Note of 06/12/2019 the site appears to sit higher than the adjacent public highway. The gradient of any new access should conform to current standards for a residential access.</p> <p>Conditions are recommended to reinforce the critical aspects.</p> <p><u>06.12.19</u> While it is considered that the development of a single dwelling would be unlikely to significantly impact on the surrounding highway network, the visibility splays indicated on the submitted plans are currently unacceptable.</p> <p>The amended plans indicate that the tree which is to be retained on the site road frontage lies behind the proposed visibility splays. On site it would appear that the tree is closer to the road and would therefore obstruct visibility for vehicles exiting the site. The site also appears to sit higher than the adjacent public highway.</p> <p><u>15.11.19</u></p>

	While it is considered that the development of a single dwelling would be unlikely to significantly impact on the surrounding highway network, the visibility splays indicated on the submitted plans are currently unacceptable. The site also appears to sit higher than the adjacent public highway.
4.2	- Public Comments
4.2.1	This application was advertised via notice at the site. Additionally, the residents of four neighbouring properties were individually notified by way of publication of this application.
4.2.2	<p>At the time of writing this report, six representations had been received objecting to the proposal. The main concerns are surmised as follows –</p> <ul style="list-style-type: none"> • The plot should not be considered as infill, but rather as open market development in the open countryside • It's likely that the amount of housing completions in the cluster will soon significantly rise, thus exceeding the SAMDev S2.2 guideline well before half-way to the 2026 target date. • Bromlow and its Cluster cannot be considered as a 'Sustainable community' due to the lack of facilities and services. • Scheme shall not significantly contribute to the local economy, nor create many local jobs • The impact of a new development on this would be highly detrimental to the visual impact of this beautiful and prominent hillside location, which was surely one of the main concerns in the designation of any area being granted AONB status. • Due to the exposed and elevated nature of the site - sat on a level section of land immediately above a steep slope in the terrain - any dwelling of whatever size or design would be very visible and would impact adversely on the visual aspect of this part of the AONB. • Property will be intrusive, where the neighbours have shared outstanding views from their properties for years • A house here will be a blot on the landscape • Reduction of view from Abel's Harp will have a detrimental impact on the business • Both agents acting for applicants and Shropshire Council Planning Officers are continuing to quote out of date numbers for housing completions to justify the granting of an excessive number of planning consents • The amount of development that has already been allowed in this ward will far exceed the agreed delivery targets for 2012-2026 and has already had a very harmful impact of the local surroundings in this part of the AONB. • The peoples of the parish have recently voted overwhelmingly in favour of rejecting the cluster and settlement structure that was imposed upon them and instead having this parish revert to open countryside status whereby all developments should be granted consent only where there is a clear public need.

5.0	THE MAIN ISSUES
	<p>Principle of development Layout, scale and Design Visual impact and landscaping Impact on residential amenity Access and highway safety Other matters</p>
6.0	OFFICER APPRAISAL
6.1	Principle of development
6.1.1	<p>A key objective of both national and local planning policy is to concentrate new residential development in locations which promote economic, social and environmental sustainability. Specifically, Policies CS1, CS3, CS4, CS5 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy seek to steer new open-market housing to sites within market towns, other ‘key centres’ and certain named villages (‘Community Hubs and Clusters’). These are identified in the Council’s Site Allocations and Management of Development (SAMDev) Plan, which was adopted recently following extensive consultation with parish councils and local communities. Isolated or sporadic development in open countryside (i.e. on sites outside the designated settlements) is likely to be resisted unless there are exceptional circumstances.</p>
6.1.2	<p>Bromlow is a small settlement with few services and facilities of its own besides a pub. However, its inclusion as part of a Community Cluster under SAMDev Policies MD1 and S2 implies that the location in general <i>is</i> sustainable and carries significant weight, with Paragraph 14 of the National Planning Policy Framework (NPPF) advising that proposals which accord with an up-to-date development plan should be approved without delay. Policy S2 gives a guideline of approximately fifteen additional dwellings across this Cluster by 2026, and besides conversion schemes policy S2.2 states that infilling may be acceptable on suitable sites. There are no development boundaries associated with the Cluster settlements group which includes Bromlow and the question of whether or not specific schemes would constitute infilling is a matter for judgment in each case.</p>
6.1.3	<p>A settlement is characterised partly by the relationship between its various properties, with its limits defined by where that relationship peters out. This varies from settlement to settlement, depending on both the number of houses and their proximity to each other. Bromlow has a very dispersed and irregular development pattern, with many properties lacking a highway frontage and being separated by paddocks or small parcels of woodland. Consequently, despite having relatively few dwellings it has a wider ‘sphere of influence’ than a more tightly clustered or nucleated settlement might, and in this context it is more difficult to identify logical or conventional infill plots (i.e. small gaps in otherwise built-up frontages).</p>
6.1.4	<p>It is acknowledged that the Parish Council have raised objection to the interpretation of infill that was employed by the planning officer providing</p>

	<p>preapplication advice for this site. 'Infill' is not a term defined by the Council's adopted Local Plan Policies, nor within the National Planning Policy Framework; in the absence of a firm planning policy definition, the concept becomes more fluid based on the local settlement character on a case by case basis. However, as a starting point, dictionary definitions of the term can be referred to.</p>
6.1.5	<p>As defined in dictionaries, 'infill' would generally refer to development on land that is considered a 'gap' between two or more other buildings or properties. Bromlow's Cluster is, by its nature, loose knit; frequently properties do not share contiguous boundaries with residential neighbours. Indeed it is common for the separation distances between dwellings to be such that there is no clearly defined 'gap' to be infilled - in the traditional definition of the term – by development. In short, this sporadic settlement character is at inherent conflict with providing sites which accord with the dictionary definition of infill. However Bromlow's Cluster status supports new residential development in principle. Accordingly, the definition of 'infill' has no choice but to be interpreted more flexibly than its dictionary phrasing, in order to allow for it be used as an assessment tool in accordance with the criteria of Settlement Policy S2.2(vii) where this policy relates to settlements of sporadic and loose knit character.</p>
6.1.6	<p>In this instance the site sits opposite the driveway of Pleasant Place on the opposite side of the road (North). There are residential neighbours within some 60 – 80m East of the outlined site, one some 150m West and another approximately 120m South. Though lacking a contiguous boundary with the neighbouring properties, the plot does front the roadside meaning that it will not observe as unduly sporadic. It shall sit centrally within this grouping of residential properties, which is considered to fall within Bromlow itself. The property is 'loosely surrounded' by residential neighbours on all sides, thus could be deemed development on land that is considered a 'gap' between two or more other buildings or properties. Where it would be read as part of this grouping rather than being isolated in otherwise open countryside, the principle of development is in this instance accepted.</p>
6.1.7	<p>With respect to the delivery of housing, the Council's latest published 5 year housing land supply statement (Published 21st March 2019 on data to 31st March 2018) advises that in the Cluster which contains Bromlow there have been 4 completions in the period 20/11/12 – 2017/18, with sites with planning permission or prior approval as at 31st March 2018 totalled 18. Since 31st March 2018 for the cluster as a whole there have been 9 further planning permissions for dwellings. This gives a total of 27 sites with planning permission across the Cluster if none of the 18 permissions listed in the published housing land supply statement have lapsed. In the case of the Bromlow settlement there are currently 3 permissions, comprising of a change of use permitted in 2017 (17/04924/FUL) and two outline permissions given since 31st March 2018 (Refs. 18/05776/OUT and 19/02225/OUT) and so the bulk of the existing approvals are elsewhere across the Cluster group.</p>
6.1.8	<p>While this combined total of permissions exceeds the development guideline of</p>

	<p>'around 15 additional dwellings', this guideline is not a ceiling on the number of permissions which may be granted. It cannot be assumed that the grant of permissions will equate with the actual delivery of dwellings..SAMDev Plan policy MD3.2 sets out a number of matters to have regard to in such situations, which include the likelihood of delivery of outstanding permissions; the benefits arising from the development; the impacts of the development, including the cumulative impacts of a number of developments in a settlement; and the presumption in favour of sustainable development. In this particular case, it is considered the impact of a third permission for a new build dwelling in Bromlow would not harm the dispersed character of the settlement. Having regard also to the presumption in favour of sustainable development set out in the NPP, a refusal on the grounds of the cluster guideline being exceeded could not be sustained in this case.</p>
6.2	Layout, scale, design and landscape impact
6.2.1	<p>Core Strategy Policy CS4 requires development in Community Clusters to be of a scale and design sympathetic to the character of the settlement and its environs, and to satisfy the more general design requirements under Policy CS6 and SAMDev Policy MD2. These expect all development to reinforce local distinctiveness in terms of building forms, scale and proportion, heights and lines, density and plot sizes, as well as materials and architectural detailing. Meanwhile the NPPF requires great weight to be given to conserving landscape and scenic beauty in AONBs.</p>
6.2.2	<p>Where landscape effects are concerned, though the application site is a currently undeveloped agricultural field there are residential properties within the vicinity. Properties 16-18 will provide a context against which the property would be read against, as well as being viewed alongside the sloping topography, when viewed from the West and East. Though somewhat less and further away, there is also the context of built form for North and South based views, where number 19 and its associated buildings are located some 100m South and Pleasant View some 60m North. Whilst acknowledged that this proposal will have a landscape impact, by bringing built form to this currently undeveloped field, it is not considered sufficiently adverse to warrant the refusal of this application particularly where is a local landscape character of residential development which provides context.</p>
6.2.3	<p>The site is readily visible from the C-classified highway from where the site gains access. Some glimpsed views will be afforded from a right of way approximately 94m South-East of the site, and also via a path some 200m North-East of the development site. In both instances the nature of the topography will partially-obscure views. Though the neighbouring properties to the East will be afforded clear views of the site, loss of view is not a material planning consideration. The landscaping reserved matter would allow for consideration to be given to what retained and new planting would assist in assimilating the development into the rural landscape.</p>
6.2.4	<p>A relatively low dwelling cut into the slope would be little or no more prominent than those existing properties further upslope and hence the essentially open character</p>

	and scenic beauty of the wider landscape should not be affected unduly. Accordingly, fundamentally, it's not considered that the visual impact of a dwelling at this location would be sufficiently detrimental as to warrant the refusal of this application.
6.2.5	In this case, though precise details are not yet known, the indicative block plan shows how the site could comfortably accommodate an 'L' shaped dwelling with a footprint circa 135m ² . There is no indication at this stage as to how many storeys high any dwelling here may stand; careful consideration would need to be given to the overall height of any dwelling here erected and its landscaping. At largest, a 1½ storey property would probably be most appropriate in this location to lessen visual prominence. This matter of scale and levels are ones which be the subject of a planning condition on any approval issued.
6.3	Impact on residential amenity
6.3.1	Some 45m would separate the development site from its nearest residential neighbour, no 16 Bromlow to the East. The plot is also slightly off-set from this neighbouring property, thus helping to ward against potential for direct overlooking. The residents of neighbouring properties are less likely to be affected, where the proposed house would sit downslope; however, were the separation distances are involved, it's not either considered that the occupants of the proposed dwelling shall be unacceptably overlooked by the neighbouring dwellings upslope. The house design can be sufficiently considered as to avoid sensitive windows on the Eastern elevations, and the house placed within its plot in such a siting to provide a privacy buffer to the garden space.
6.3.2	Where other neighbouring residents are involved, the separation distances are considered sufficient to ensure that no unacceptable overlooking nor loss of privacy can occur. With respect to the amenity of the proposed dwelling, it would be within close proximity to carparking associated with Abels Harp; however this carparking appears to be overflow carparking for the venue, thus shall only be in use at particularly busy times or during scheduled events at the venue. The future potential occupants of the dwelling would be aware of this amenity scenario, and this relationship would not be sufficiently detrimental as to warrant the refusal of this application.
6.4	Access and highway safety
6.4.1	The plot is proposed to gain access from the C-classified highway that connect the villages of Bromlow and Hemford. The highway is sloping, however the gradient is not excessively steep and acceptable visibility splays can be achieved in both directions. As summarised above the Highways Development Control Team has no objection.
6.5	Other matters
6.5.1	The Town and Country Planning (Development Management Procedure) (England) Order 2015 dictates that either neighbour notification letters or a notice at the site are required to advertise an application; there is no legislative requirement to

	provide both. In this instance, both methods of publication were employed. In terms of neighbour consultations, this was done at the initial validation of this application thus at the prudent time to provide notice to neighbours and provide the statutory 21 days of notification. A site notice was also erected at this location, providing a further 21 days of notification from the time of its erection. Though there was delay between the issuing of neighbour notification letters and the erection of the site notice, in both instances the necessary timeframe for advertisement was achieved.
6.4.2	Where neighbour letters are concerned, the aforementioned order requires that notice should be served on “ <i>any adjoining owner or occupier</i> ”; it defines this as “ <i>any owner or occupier of any land adjoining the land to which the application relates</i> ”. The land relating to any application is generally that which is edged in red on the submitted location plans. ‘Adjoining’ occupiers are also those <i>directly</i> adjoining as opposed to those separated by highways or access roads. Nonetheless in this instance, as above, the application was publicised via combination of notice at the site and neighbour notification letters.
6.4.2	Whilst loss of light and privacy concerns are material planning considerations, devaluation of property and loss of view are not material considerations which can be given any significant weight in in the planning balance.
7.0	CONCLUSION
7.1	Given the site’s location proximity to a group of existing residential properties it is, on balance, judged to form part of the loose-knit Cluster settlement of Bromlow, and hence an open-market dwelling is acceptable in principle. The indicative plans show how the site could accommodate a dwelling in keeping with the neighbouring properties and not unduly prominent in the landscape, and there are no significant or insurmountable concerns regarding residential amenity, vehicular access, ecology or drainage. Overall, therefore, the application accords with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.
8.0	Risk Assessment and Opportunities Appraisal
8.1	Risk Management
	<p>There are two principal risks associated with this recommendation as follows:</p> <p>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</p> <p>irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.</p> <p>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</p>

	<p>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.</p> <p>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.</p>
8.2	Human Rights
	<p>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.</p> <p>First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.</p> <p>This legislation has been taken into account in arriving at the above recommendation.</p>
8.3	Equalities
	<p>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.</p>
9.0	Financial Implications
	<p>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.</p>

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Shropshire Core Strategy and SAMDev Plan Policies:

- CS1 - Strategic Approach
- CS3 - The Market Towns and Other Key Centres
- CS4 - Community Hubs and Community Clusters
- CS5 - Countryside and Greenbelt
- CS6 - Sustainable Design and Development Principles
- CS17 - Environmental Networks
- MD2 - Sustainable Design
- MD3 - Managing Housing Development
- Settlement: S2 - Bishops Castle

SPD on the Type and Affordability of Dwellings

RELEVANT PLANNING HISTORY:

- SS/1/4007/P/ Erection of an agricultural store PERCON 9th December 1993
- SS/1/2849/P/ Erection of a replacement dwelling and alteration to existing vehicular and pedestrian access. PERCON 18th September 1992
- SS/1/2724/P/ Erection of an extension to existing dwelling WDN 2nd September 1992
- SS/1/2438/P/ Erection of an extension and improvements to existing dwelling, alteration to existing vehicular and pedestrian access. PERCON 28th May 1992
- SS/1/3044/K/ Erection of a replacement agricultural building. PERCON 9th November 1992

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PZRG7TDIQB00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Planning Statement
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member Cllr Mrs Heather Kidd
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Details of appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins, and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 5 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: In accordance with Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: In accordance with Section 92 of the Town and Country Planning Act, 1990.

4. As part of the submission of reserved matters relating to appearance, layout and scale a detailed plan, showing the levels of the existing site, the proposed slab levels of the dwelling approved and a datum point outside of the site, shall be submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details. Any first floor accommodation in the dwelling shall be accommodated within the roof space of the proposed dwelling, in whole or part, to achieve a scale of development appropriate to the site context.

Reason :To define the permission and ensure that the development is of a scale and height appropriate to the site.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development shall take place until details of the layout, construction, gradient and sightlines for the access have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use and thereafter maintained.

Reason: To ensure a satisfactory means of access to the highway.

6. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

Informatives:

1. In arriving at this decision Shropshire 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 38.
2. In determining this application the local planning authority gave consideration to the following policies:

Central Government Guidance:
National Planning Policy Framework

Shropshire Core Strategy and SAMDev Plan Policies:
CS1 - Strategic Approach
CS3 - The Market Towns and Other Key Centres
CS4 - Community Hubs and Community Clusters
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks
MD2 - Sustainable Design
MD3 - Managing Housing Development
Settlement: S2 - Bishops Castle

SPD on the Type and Affordability of Dwellings

3. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences. All vegetation clearance, tree removal and/or scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. No clearance works can take place with 5m of an active nest. If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.
4. Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

5. All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences. If any evidence of bats is discovered at any stage then development works must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed. Breathable roofing membranes should not be used as it produces extremes of humidity and bats can become entangled in the fibres. Traditional hessian reinforced bitumen felt should be chosen.

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Committee and date

South Planning Committee

11 February 2020

SCHEDULE OF APPEALS AS AT COMMITTEE 11/02/2020

LPA reference	18/05657/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr John Taylor
Proposal	Application under Section 73A of the Town and Country Planning Act 1990 for the erection of a front extension (amended description)
Location	5 Cape Street Broseley Shropshire TF12 5NQ
Date of appeal	16.10.2019
Appeal method	Written Representations
Date site visit	19.11.2019
Date of appeal decision	06.12.2019
Costs awarded	N/A
Appeal decision	Allowed

LPA reference	19/02495/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr M Cawley
Proposal	Erection of a single storey extension to adjoin the side elevation of the existing rear extension
Location	13 Upper Linney Ludlow SY8 1EF
Date of appeal	29.10.2019
Appeal method	Fast Track
Date site visit	26.11.2019
Date of appeal decision	10.12.2019
Costs awarded	N/A
Appeal decision	Allowed

LPA reference	18/03245/CPE
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Pavan Banger
Proposal	Application for certificate of lawful development to continue to use the stable block as a dwelling and the erection of a carport having been completed more than 4 years preceding the date of this application
Location	Clematis Cottage 4 Rudge Heath Road Rudge Heath Claverley WV5 7DJ
Date of appeal	18.07.2019
Appeal method	Written representations
Date site visit	12.11.2019
Date of appeal decision	16.12.2019
Costs awarded	N/A
Appeal decision	Allowed

LPA reference	18/05321/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr R Whittle
Proposal	Outline application for the erection of 7 No dwellings; formation of new access road and vehicular access, to include layout (with all other matters reserved)
Location	Land Rear Of Beech Croft Vicarage Lane Highley Shropshire
Date of appeal	09.09.2019
Appeal method	Written Representations
Date site visit	
Date of appeal decision	19.12.19
Costs awarded	
Appeal decision	Dismissed

LPA reference	17/05642/CPE
Appeal against	Certificate – No Lawful
Committee or Del. Decision	Delegated
Appellant	Mr Simon Reed
Proposal	Application for a Lawful Development Certificate for the use of the Pheasant Inn Public House as a single dwelling house
Location	The Pheasant Inn Britons Lane The Smithies Bridgnorth Shropshire WV16 4TA
Date of appeal	18.07.19
Appeal method	Written Representations
Date site visit	
Date of appeal decision	20.12.2019
Costs awarded	
Appeal decision	Allowed

LPA reference	18/05623/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated
Appellant	Mr And Mrs Ian Galliers
Proposal	Erection of a pair of 2no semi-detached houses together with associated driveways, landscape and drainage (amended description)
Location	Proposed Residential Development Land To The West Of Green Lane Exfords Green Shrewsbury
Date of appeal	16.08.2019
Appeal method	Written Representations
Date site visit	11.11.2019
Date of appeal decision	04.12.2019
Costs awarded	
Appeal decision	DISMISSED

LPA reference	18/04077/PMBPA
Appeal against	Refused Prior Approval of Permitted Development
Committee or Del. Decision	Delegated
Appellant	Mr And Mrs S Jones
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Grove Barn The Grove Pitchford Road Condover
Date of appeal	10.05.2019
Appeal method	Written Representations
Date site visit	03.09.2019
Date of appeal decision	06.01.2020
Costs awarded	
Appeal decision	DISMISSED

LPA reference	16/03406/OUT
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated
Appellant	Hereford Diocesan Board Of Finance
Proposal	Outline application for the erection of up to 12 dwellings to include access (amended description).
Location	Land West Of The Rectory Plealey Lane Longden Shrewsbury
Date of appeal	20.11.2019
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/00344/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr R Dixon
Proposal	Erection of three terrace houses following removal of existing single storey extensions
Location	Tankerville Arms Shrewsbury Road Longden Shrewsbury Shropshire SY5 8EX
Date of appeal	21.10.19
Appeal method	Written Representations
Date site visit	
Date of appeal decision	20.01.2020
Costs awarded	
Appeal decision	DISMISSED

LPA reference	18/01496/CPL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Phillip Broome
Proposal	Lawful development certificate for the proposed erection of leisure building, garages and garden room
Location	The Birches Cross Road Albrighton
Date of appeal	18.07.2019
Appeal method	Written representations
Date site visit	17.01.2020
Date of appeal decision	21.01.2020
Costs awarded	
Appeal decision	Dismissed

LPA reference	18/04313/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs S Duboulay
Proposal	Use of land for stationing of 8 eco-pods for holiday use with associated car parking (revised scheme)
Location	Bayliffs House Spout Lane Benthall
Date of appeal	18.10.19
Appeal method	Written representations
Date site visit	17.12.20
Date of appeal decision	27.01.20
Costs awarded	
Appeal decision	Dismissed

LPA reference	19/01482/FUL
Appeal against	Non determination
Committee or Del. Decision	n/a
Appellant	Dennis Hodgetts
Proposal	Erection of a predominantly glazed garden room with external patio and steps following demolition of conservatory
Location	Cherry Orchard Farmhouse Tuckhill Six Ashes Bridgnorth Shropshire WV15 6EW
Date of appeal	28.01.20
Appeal method	Written representations
Date site visit	20.08.19
Date of appeal decision	28.01.20
Costs awarded	
Appeal decision	Dismissed

LPA reference	18/03863/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr R Burgoyne
Proposal	Outline application for the erection of detached cottage and garage to include means of access
Location	Proposed Dwelling To The East Of Corfton Shropshire
Date of appeal	29.01.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	19/01908/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr A N Abbott
Proposal	Erection of 1no. replacement dwelling following demolition of an existing residential annex and an agricultural barn (amended description).
Location	Proposed Dwelling North Of Stapleton Grange Longden Shrewsbury Shropshire
Date of appeal	29.01.20
Appeal method	Written reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

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Appeal Decision

Site visit made on 19 November 2019 by G Sibley MPLAN MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2019

Appeal Ref: APP/L3245/D/19/3237383

5 Cape Street, Broseley TF12 5NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Taylor against the decision of Shropshire Council.
 - The application Ref: 18/05657/FUL, dated 3 December 2018, was refused by notice dated 30 July 2019.
 - The development proposed is described on the application form as: Retrospective planning application for greenhouse to front of house.
-

Decision

1. The appeal is allowed, and planning permission is granted for an application under 73A of the Town and Country Planning Act 1990 for the erection of a front extension at 5 Cape Street, Broseley TF12 5NQ in accordance with the terms of the application Ref: 18/05657/FUL, dated 3 December 2018, and the plans numbered 1879/01 and 1879/02 Rev A.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The development was described on the application form in the manner set out in the banner heading above. The Council gave a different description on the decision notice, referring to it as an, "Application under section 73A of the Town and Country Planning Act 1990 for the erection of a front extension". The appellant used the Council's description on the appeal form. The structure is more substantial than a greenhouse and the "erection of a front extension" more accurately describes the proposal. Therefore, I have used that description in the decision above. The extension has already been constructed and as such I shall proceed on the basis that the development has already been implemented.

Main Issue

4. The effect of the development on the character and appearance of the host dwelling and linked to that whether the development preserves or enhances the character or appearance of the Broseley Conservation Area (CA).

Reasons for the Recommendation

5. The Broseley Conservation Area (CA) covers the historic core of the settlement. The settlement came to prominence during the industrial revolution and many of the buildings in the settlement were built during the Georgian era. This established a complex irregular pattern of development which is characteristic of a large part of Broseley, with a mixture of large houses, commercial buildings and small cottages, detached, in groups, rows, or terraces; all mixed together in a haphazard fashion. That mix of formal and informal buildings of varying sizes and design adds to the special interest of the CA.
6. Cape Street is located within the CA and follows the pattern of development described above, with a mix of large and small buildings that have been grouped together with no uniformity in design style. No.5 and the two dwellings next to it are relatively small cottages whilst the other dwellings in the street scene are typically larger more grandiose dwellings.
7. The single storey extension is located forward on the main elevation of the building and sits behind the boundary wall that faces Cape Street which is around 2m tall. The wall has already been granted planning permission (Council Ref: 16/02992/FUL). The wall turns into and connects to the host dwelling and the extension is located behind this wall. The dwellings within the street scene have a varied building line, although no.5 is in a run of three dwellings that share a common building line and this extension is set forward of this.
8. The extension is single storey and its size is relative to the host dwelling and as such it does appear subordinate to it. The materials chosen relate well to the host dwelling and are appropriate in the CA. The extension is located forward of the main elevation and this does not match the built form of the host dwelling, which is a wide but narrow dwelling. Nevertheless, because the extension is located behind the wall it is only partially visible from the public domain and as such it has a very limited effect upon the character and appearance of the host dwelling and the street scene. The wall, which has been constructed in line with the planning permission granted by the Council, remains the dominant feature to the front of the property. Therefore, having regard to the context of the site and the effect of the previously permitted wall, the proposal preserves the character and appearance of the CA.
9. Whilst the extension is located forward of the front elevation, due to its size and location the proposal does not harm the character or appearance of the host dwelling. Consequently, the proposal preserves the character and appearance of the CA. Therefore, the development complies with policy CS6 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy and policy MD2 and MD13 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan.

Conditions

10. The Council have suggested a single condition which requires the development to be built in accordance with the submitted plans. This condition is not necessary because the development has already been carried out and I have therefore not included it.

Conclusion and Recommendation

11. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree that the appeal should be allowed.

Chris Preston

INSPECTOR

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Appeal Decision

Site visit made on 26 November 2019

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th December 2019

Appeal Ref: APP/L3245/D/19/3238500

13 Upper Linney, Ludlow, SY8 1EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Cawley against the decision of Shropshire Council.
 - The application Ref 19/02495/FUL, dated 3 June 2019, was refused by notice dated 28 August 2019.
 - The development proposed is addition of garden room to the rear of the property accessed via existing back door.
-

Decision

1. The appeal is allowed, and planning permission is granted for addition of garden room to the rear of the property accessed via existing back door at 13 Upper Linney, Ludlow, SY8 1EF in accordance with the terms of the application Ref 19/02495/FUL, dated 3 June 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1920.003.01; 1920.003.02; 1920.003.03; 1920.003.04; 1920.003.05; 1920.003.06; 1920.003.07; GHA-19-613 P.01 Rev 01; GHA-19-613 P.02 Rev 01; GHA-19-613 P.03 Rev 01.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) No development shall take place until a Written Scheme of Investigation for archaeological monitoring has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme and provision to be made for post investigation analysis and reporting;
 - iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - iv) provision to be made for archive deposition of the analysis and records of the site investigation;

- v) nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

Main Issue

2. The main issue is the effect of the development on the living conditions of No 12 Upper Linney with regard to loss of privacy.

Reasons

3. The layout of No 13 Upper Linney is unusual in that its garden area is directly to the rear of the adjoining property at No 12. The proposed extension would be positioned along the rear wall of No 12 and below first floor windows to that property which serve a bathroom and a landing.
4. The proposed extension would contain 2 rooflights. These would be angled away from No 12 which would heavily restrict any direct overlooking between the proposed and existing windows. Moreover, the bathroom window to No 12 is obscurely glazed which would further restrict any residual overlooking. In my view, no significant loss of privacy would arise from the position of the rooflights.
5. The angle of the proposed rooflights would also serve to direct light and sound spillage away from No 12. The extension is not proposed to be used as a kitchen, and in any case, it is highly unlikely that cooking smells from a single dwelling would be intrusive.
6. The roof of the proposed extension would be mono-pitched and no stairway or other access onto it is proposed. It is clearly not designed to be used as a balcony, and I am satisfied that the privacy of the windows above would therefore be preserved.
7. The proposed extension would be positioned around 2.5 metres from the existing boundary fence. Given the intervening distance, and the single-storey height of the extension, it would not result in any significant overshadowing or loss of light to any ground floor window in No 12.
8. Any disturbance or loss of privacy during the construction phase would be temporary in nature. Any damage incurred during this period would be a civil matter between the relevant parties.
9. For the above reasons, I conclude that the development would not significantly harm the living conditions of No 12 Upper Linney with regard to loss of privacy. It would therefore accord with Policy CS6 of the Shropshire Core Strategy (2011) which seeks, amongst other things, to protect residential amenity.

Other Matters

10. The proposed extension would leave only a narrow gap between the development and the rear wall of No 12. In this regard, it is asserted that it would prejudice the proper maintenance of that property. However, maintenance and associated access rights are covered by other legislation outside of the planning regime. Similarly, matters relating to the proposed

foundations, and any drains that exist beneath the proposed extension, are addressed by other legislation including the Building Regulations and the Party Wall Act. Accordingly, those matters have not had any material bearing on my assessment of the planning issues in this appeal. In this regard, the development would not conflict with Policy CS17 of the Shropshire Core Strategy (2011), or Policies MD2 and MD13 of the Shropshire Site Allocations and Management of Development Plan (2015).

11. The appeal site is within the Ludlow Conservation Area, which encompasses the historic core of the town. The effect of the development on the character and appearance of the conservation area was not a reason for refusal, and the Council do not object to the development on this basis. The proposed extension would be modest in scale and sympathetic in its design, and it would not be visible from any public vantage point. I am therefore satisfied that it would preserve the character and appearance of the conservation area, in accordance with national policy.
12. The rear garden to No 13 backs onto Ludlow Town Walls, which is a Scheduled Monument and a Grade II listed building. Whilst the proposed extension would bring the property slightly closer to the walls, a significant gap would remain, and it would be sympathetic in its scale and appearance. Accordingly, I do not consider that it would result in any harm to the walls or its setting. I further note that neither Historic England, the Council's Conservation Officer, nor The Ludlow Town Walls Trust object to the development on these grounds.
13. It is asserted that there are a number of factual errors within the submitted documents. However, these are minor in nature and do not alter the planning merits of the proposal.
14. It is a long-established principle that the planning system does not exist to protect private interests such as the value of land and property.

Conditions

15. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. A further condition that requires the proposed materials to match the existing building is necessary to protect the character and appearance of the host property. I have also imposed a condition relating to archaeology, which is necessary in order to ensure that any archaeological remains are appropriately investigated and recorded. This condition is pre-commencement in nature as any construction works could affect remains within the site. As required by Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has agreed to this condition in writing.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR

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Appeal Decision

Site visit made on 12 November 2019

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/L3245/X/19/3222768

Clematis Cottage, 4 Rudge Heath Road, Rudge Heath, Claverley WV5 7DJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Pavan Banger against the decision of Shropshire Council.
 - The application, Ref 18/023245/CPE, dated 12 July 2018, was refused by notice dated 3 January 2019.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is described as the use of stables as a dwelling.
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the use of the stables as a dwelling and the erection of a carport to the rear of the stables, which are considered to be lawful.

Procedural Matter

2. The appeal building sits within the grounds of Clematis Cottage and, whilst it is approached by the same drive from Rudge Heath Road, it is fenced off from the main house and has a separate parking area. The Council described it as having the appearance of stables with a large lean-to extension. There is also a large carport structure to the rear. The appellant initially made no reference to the carport in his application but the Council considered whether it had been in situ for four years as part of their determination of the application. The appellant subsequently addressed this in his grounds of appeal and submitted evidence to support his case. I shall therefore proceed on the basis that the application is for the use of stables as a dwelling and the erection of a carport.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant a certificate was well founded.

Reasons

4. Section 191(2) of the 1990 Act, as amended, indicates that uses and operational development are lawful at any time if (a) no enforcement action may then be taken in respect of them because, for instance, the time for enforcement action has expired and (b) they do not contravene the

- requirements of any enforcement notice in force. Lawfulness in this case is to be decided at the time of the application, that is the 12 July 2018.
5. Subsection 191(2)(b) is met here as there is no enforcement notice in force. With regard to subsection 191(2)(a), sections 171B (1) and (2) say that where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house or operational development has taken place, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. The relevant period for consideration in this instance is more than four years before the date of the application, so the 12 July 2014 is the relevant date.
 6. The appellant has submitted a statutory declaration dated the 3 July 2018 to declare that he has lived in the stables since the 20 February 2008. After he married on the 17 November 2012 his wife also lived in the stables and they have since had a child. His father bought Clematis Cottage on the 1 November 2004 and the appellant began converting the stables into habitable accommodation on the 1 February 2008, resulting in about 180sqm of floor space. This comprises a lounge, bedroom, kitchen, bathroom, playroom and two other rooms and the work was completed on the 20 February 2008.
 7. The appellant has also submitted documentary evidence to support what he declares and to demonstrate continuous use. There is a receipt from an electrician dated the 12 February 2018 entitled "Stable block wiring for conversion to dwelling, 100a board" which lists an electric shower fitting, six double sockets, three light fittings, spotlights and an external floodlight. There is also a receipt from The Kitchen and Flooring Centre dated the 15 February 2008 addressed to the appellant at the stable block. This itemises a single basin, mixer tap, a two hob ceramic cooker and six kitchen units.
 8. Finally, there are Sky subscription bills addressed to the stables. These appear to be for selected months from the following years: 2014 (28 June-27 July); 2016 (28 July-27 August); 2017 (28 January-27 February); and 2018 (28 August-27 September).
 9. In respect of the carport, there is a receipt from The Builders Centre Limited dated the 27 September 2013 itemising: fence panels, 200ft 2x3 timber, plyboard sheets and 20 rolls of roofing felt. This is accompanied by a letter from JR Interiors confirming that a concrete base was laid and a carport was erected beginning on the 6 October 2013 and that the works took around 14 days to complete.
 10. The Council confirmed that the property is not registered for Council Tax or electoral registration and no address is listed with the Royal Mail.
 11. With regard to the carport, there is evidence that building materials were ordered in September 2013, which appear to be the materials used in the construction of the carport. In addition, a firm of builders confirmed that they made use of the materials provided to erect it in October 2013. As more than four years has elapsed since that date and those four years are before the 12 July 2018, I find the erection of the carport, on the balance of probabilities, is lawful, there being no evidence from elsewhere to contradict the appellant. The appellant's evidence is also precise and unambiguous.

12. With regard to the residential use, I am required to consider not the availability or suitability of the stables for residential use but whether they were actually put to such use. Furthermore, that the use has continued without material interruption thereafter so as to be immune from enforcement.
13. I saw at the site visit that the fittings in the kitchen matched those described in the receipt. There was also an electric shower over the bath, a light fitting in the bedroom, an external floodlight and lighting elsewhere that corresponded with the electrician's receipt. In addition, the Council have produced a Google Streetview image, dated March 2009, which shows a brown window frame installed in the end elevation. It is therefore considered, in the absence of any information to the contrary, that the appellant did indeed carry out the conversion of the stables to facilitate a residential use in February 2008.
14. With regard to continuous residential use, the appellant has provided a statutory declaration describing his use of the property from 20 February 2008. There are no separate utility bills, which would provide evidence of use, as there are no separate meters from Clematis Cottage. However, the appellant has produced evidence from his Sky television bills. His partner pays a monthly subscription and the bills show she has an account, so it would appear that these are not one-off payments. The earliest bill is dated 28 June 2014, so this is before the relevant date.
15. The Council submit that the lack of an official correspondence address and no registration for Council Tax or for electoral purposes means that the property has only been used as ancillary accommodation to Clematis Cottage. However, they have no evidence to demonstrate that this is the case, other than pointing out there are no separate utility meters, and the appellant states he has his own curtilage and his own parking area. In any event, it does not follow that non-payment of Council Tax and relying on another property for post means that the stables were not in residential use. It simply means the appellant chose, for whatever reason, not to pay tax and carry out these requirements. Furthermore, payment of rent in some accommodation often includes utilities but that does not mean that the use of the accommodation is not self-contained.
16. In an appeal relating to an LDC, the burden of proving relevant facts rests with the appellant and the test of the evidence is the balance of probabilities. The appellant's own evidence does not have to be corroborated by independent evidence. If there is no evidence to contradict or otherwise make the appellant's version of events less than probable, the appellant's evidence alone may be sufficient to justify the grant of a certificate, provided that it is sufficiently precise and unambiguous.¹
17. From all the material before me it is concluded, on the balance of probabilities, that the use of the stables as a self-contained residential unit took place more than four years before the date of the application. There is no evidence to contradict the appellant's statutory declaration and the proving of relevant facts is precise and unambiguous.

¹ Planning Practice Guidance

Conclusion

18. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the use of the stables as a dwelling and the erection of a carport to the rear of the stables was not well founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

D Fleming

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 12 July 2018 the operation described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reasons:

The use of the stables as a dwelling began more than four years before the date of the application and continued thereafter; and the use does not contravene the requirements of any enforcement notice in force.

The erection of the carport was substantially complete by 2014 at the latest and does not contravene the requirements of any enforcement notice in force.

Signed

D Fleming

Inspector

Date: 16 December 2019

Reference: APP/L3245/X/19/3222768

First Schedule

The use of the stables as a dwelling and the erection of a carport to the rear of the stables.

Second Schedule

The stables, Clematis Cottage, 4 Rudge Heath Road, Rudge Heath, Claverley
WV5 7DJ

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

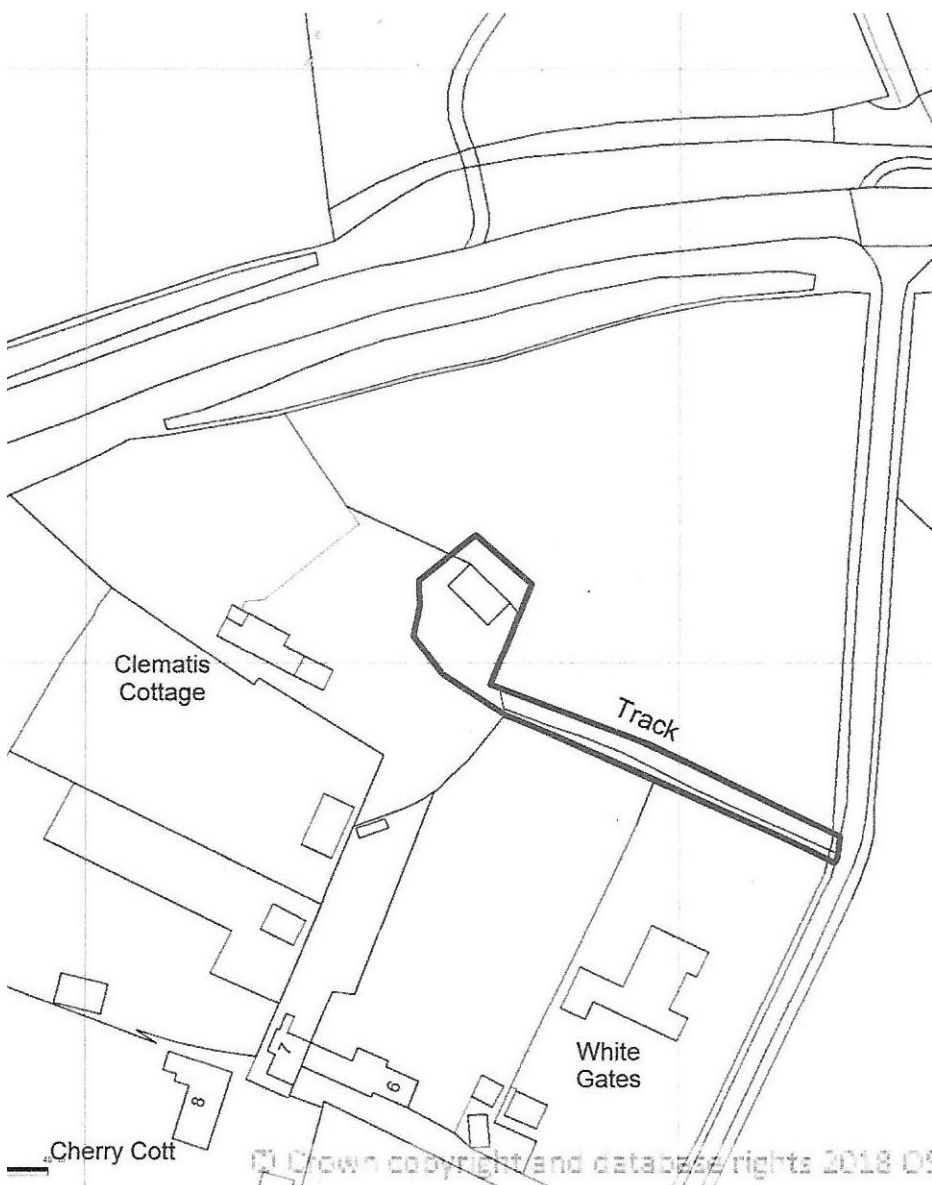
This is the plan referred to in the Lawful Development Certificate dated: 16 December 2019

by **D Fleming BA (Hons) MRTPI**

Land at: The stables, Clematis Cottage, 4 Rudge Heath Road, Rudge Heath, Claverley WV5 7DJ

Reference: APP/L3245/X/19/3222768

Scale: not to scale



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Appeal Decision

Site visit made on 5 November 2019

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Appeal Ref: APP/L3245/W/19/3235601

Land to the rear of Beechcroft and Maroc, off Vicarage Lane, Highley WV16 6JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Whittle against the decision of Shropshire Council.
 - The application Ref 18/05321/OUT, dated 14 November 2018, was refused by notice dated 30 May 2019.
 - The development proposed is the erection of 7no dwelling units, provision of new access road and formation of new vehicular access, and layout (with all other matters reserved).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is sought but with access and layout to be considered at this stage. I have therefore determined the appeal on this basis.
3. The proposals were amended during the application process. The Council made its decision on drawings including drawing ref: Proposed Site Layout;18.009 10.00 Rev D, and I have determined the appeal on the same basis.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, including the relationship to existing trees;
 - the living conditions of existing occupants of adjoining dwellings on Bridgnorth Road, with particular regard to overlooking and general noise and disturbance; and
 - highway safety, with regard to parking and access

Reasons

Character and appearance

5. The site is located on Vicarage Lane and is bound by the highway, residential gardens of existing properties that front on to Bridgnorth Road and a public right of way.

6. The site and adjacent public right of way are at a higher ground level than Vicarage Lane, which falls quite sharply from its road junction with Bridgnorth Road. The surrounding area has a spacious and verdant character with mature trees present along Vicarage Lane and the public right of way, and dwellings predominately positioned within large plots and set back from their front boundaries. The surrounding level changes permit glimpsed views to the wider, open countryside which, along with the landscaped setting, is a positive feature resulting in the surrounding area also having a semi-rural character and appearance.
7. I saw on my site visit that there are some dwellings on St Peter's View which are set within smaller plots. Those properties however are single storey and set at a significantly lower ground level than the appeal site. They are not accessed from Vicarage Lane, but via Rhea Hall Estate, which has a more compact form. There are limited views of those properties from Vicarage Lane. Even from the public footpath, where they are more apparent, the significant level change means they are not viewed in the same context as the appeal site.
8. The appeal scheme would result in dwellings set within small plots, and whilst frontage setbacks would be incorporated, the dwellings would overall be in close proximity to their boundaries. There would be little relief between the built form and the layout would appear cramped, lacking the spaciousness that is an integral part of the predominant, established pattern of development in the vicinity. The impact of this would be evident from the surrounding area due to level changes and the access road opening up views into the site.
9. In addition, there are a number of mature trees adjacent to the site, alongside the public right of way. These trees make a positive contribution to the verdant and semi-rural character of the surrounding area. Although the trees are not within the site the proposed development would be in very close proximity to them. Whilst conditions could be imposed to ensure appropriate methodology is employed to minimise any impact, it is clear from the details submitted that the canopies would be close and likely overhang the proposed dwellings and turning head.
10. The existing trees would be significant features and dominate the outlook from the properties, in particular Plots 4, 5, 6 and 7 and their rear gardens. Furthermore, considering the orientation of the site they would result in a substantial level of shading. On that basis I consider there would be pressure in the future to prune or remove these trees, due to their effect on light, maintenance and safety or structural integrity concerns, which may be difficult for the Council to resist in the future. Any extensive pruning or felling of these trees would have a harmful impact on the verdant character of the surrounding area.
11. Therefore, for the reasons stated the development would be contrary to Policies CS6 and CS17 of the Shropshire Local Development Framework: Core Strategy, 2011 (CS) and Policies MD2 and MD12 of the Shropshire Council Site Allocations and Management of Development Plan, 2015 (SAMDev) which seek to ensure development is of a high standard of design and layout, which reflects local context and character and retains existing landscape features. For the same reasons the development would also not achieve the high-quality design requirements of Section 12 of the National Planning Policy Framework (the Framework).

Living Conditions

12. The appeal site adjoins the rear boundaries of existing residential dwellings, which front on to Bridgnorth Road. The proposed access to the site from Vicarage Lane would be directly adjacent to the boundary with Beechcroft, and the access road itself would thereafter largely follow the alignment of the site boundary with the adjacent dwellings. It would extend along the full length of the rear boundaries of both Beechcroft and Maroc and these properties are in close proximity to their respective rear site boundaries.
13. Considering the number of dwellings proposed, and that the access road would be the sole means of access, there would be a significant increase in activity levels. I therefore consider there would be unacceptable harm to the existing occupants of Beechcroft and Maroc, due to increased noise and disturbance from vehicle movements and engine noise in close proximity to their private rear outdoor space, an area where occupants could reasonably expect activity levels to be lower.
14. Although the positioning of the access road would provide for greater separation between the proposed dwellings and the existing boundary with Beechcroft and Maroc, they would still be in close proximity and likely have windows in their front elevations that would directly overlook the existing dwellings and their rear garden areas. Some of the proposed dwellings would have an angled relationship to the site boundary, and whilst this may assist in mitigating some of the harm from overlooking between the dwellings themselves, this does not apply to all the proposed dwellings, nor would it significantly reduce the level of overlooking to rear garden areas.
15. Detailed design considerations, as part of reserved matters submissions, have the potential to address this issue to some extent. However, based on the layout and orientation of the dwellings proposed I am not convinced that it has been satisfactorily demonstrated that an acceptable scheme could be advanced at reserved matters stage. In addition, the existing properties are currently not significantly overlooked, and considering the proximity of the proposed dwellings and access road, there would still be a perception of overlooking and general loss of privacy, which would have a harmful effect of their living conditions.
16. The proposed layout would have a harmful impact on the occupants of Beechcroft and Maroc from overlooking and a general loss of privacy, though due to the distance of other existing dwellings from the site boundary and substantial rear gardens, the impacts to the occupants of other neighbouring properties would be more limited.
17. For the reasons above I conclude that the development would significantly harm the living conditions of occupiers of neighbouring properties and would therefore conflict with Policy CS6 of the CS and MD2 of the SAMDev, which seek to ensure that development responds appropriately to the form and layout of existing development and safeguards residential amenity.

Highway Safety

18. The submitted plans show that the access to the site would be from Vicarage Lane. There is no pedestrian footway adjacent to the site, just a grass verge

alongside the highway. The location of the access into the site is dictated by the change in ground level between the site and Vicarage Lane, which is at its lowest at the north-west corner of the site.

19. I saw on my site visit that visibility along Vicarage Lane is good, though vehicles do park on-street, on the opposite side of the road from the appeal site, and where this occurs only single file traffic can pass along Vicarage Lane. I also saw vehicles parked inappropriately, wholly on the small section of footpath and partially on the grass verge at the junction opposite the site. Whilst my site visit provides just a snapshot it does reflect the concerns raised by Interested Parties.
20. I note the access into the site would meet the Council's requirements in relation to its initial width and visibility onto Vicarage Lane, and I have no evidence before me to bring me to a different conclusion on those aspects of the proposal. However, the width of the access road narrows further into the site.
21. Beyond the initial section of the access road from Vicarage Lane, the width of the access road would not permit 2 vehicles to pass. It would be constrained to either side by the boundary of existing properties, the driveways and gardens to the proposed dwellings, and, in the case of Plot 7, the proposed dwelling itself. This would result in vehicles either having to reverse along the access way or overrunning the verges and driveways, particularly in the event of a large vehicle, such as a refuse vehicle or delivery van, using the access road.
22. Whilst residents' parking and a turning space are provided for within the site, there would be no provision for visitor parking. I consider this deficiency could lead to inappropriate parking along the access road, within the turning head or on Vicarage Lane. This would impact on the safe manoeuvrability of vehicles within the site and affect their ability to enter and leave the site in a forward gear.
23. Whilst some on-street parking would be available in the surrounding area, as detailed above, this is limited and there already appears to be inappropriate parking occurring. Increased demand for on-street parking in the vicinity of the access to the site would add to this and affect the ability of vehicles to safely enter and leave the site due to lack of manoeuvring space, particularly in respect of larger vehicles. This impact would be further compounded if vehicles had to reverse onto Vicarage Lane due to lack of manoeuvring space within the site as a result of inappropriate parking.
24. Furthermore, there would be no footpath along the access road and so pedestrians and vehicles would need to share the space. In addition to standard pedestrian movements, future occupants would also regularly need to use the access road on foot, to gain access to the bin collection area.
25. The number, speed and frequency of expected vehicles would be low, and the road would remain as a private drive. However, having regard to all these factors I am not convinced that the internal road layout would provide for a safe and convenient access. I consider that due to the constrained nature of the access road, lack of a footpath and visitor parking, the proposal would result in an unacceptable impact to highway safety. The Highways Officer for the Council has not raised an objection to the principle of the development.

However, I note that they did have similar concerns, to those I have detailed above, in relation to the internal arrangement of the site.

26. Therefore, for the reasons stated the development would be contrary to CS Policy CS6 and SAMDev Policy MD2 and Paragraph 109 of the Framework which seek to ensure that new developments can be safely accessed by pedestrians, cyclists and road users and minimise the scope for conflicts between pedestrians and vehicles.

Other Matters

27. There was a previous planning approval for a dwelling on the site, and that the appellant has attempted to address the Council's objections to a previous scheme through pre-application discussions. In addition, it is noted that no objections were raised by consultees in relation to ecological matters for the appeal scheme. However, having considered the proposal on its own merits, this does not alter the harmful effects I have found.
28. I note there is disagreement between the main parties in relation to the level of open space that should be provided for on the site and whether any need could be satisfied by existing off-site open space. However, within the evidence before me there is an absence of information relating to the number of bedrooms proposed and detail on the level of local need relating to open space. I am therefore not able to conclude on this matter. The provision of open space would not amount to a benefit weighing in favour of the development and, as I am dismissing the appeal for other reasons, I have therefore not pursued this matter further with the main parties. These other matters do not, therefore, lead me to a different conclusion.

Conclusion

29. Whilst the development would provide adequate garden area, accommodate bin storage, provide for a footpath on Vicarage Lane and not impact on the existing public right of way, I consider these matters would have a neutral effect, and therefore do not weigh in favour of the appeal.
30. I note that the Council do not object to the principle of residential development, the Framework emphasises the need to support the efficient use of land and the proposal would provide additional dwellings. Whilst I have taken this into account, I do not consider these benefits would be sufficient to outweigh the harm I have identified.
31. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

A Denby

INSPECTOR

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Appeal Decision

Site visit made on 12 November 2019

by D Fleming BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2019

Appeal Ref: APP/L3245/X/18/3215230

**The former Pheasant Inn, Britons Lane, The Smithies, Bridgenorth
WV16 4TA**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr and Mrs Simon Reed against the decision of Shropshire Council.
 - The application, Ref 17/05642/CPE, dated 21 November 2017, was refused by notice dated 30 April 2018.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is the change of use from a public house (A4) to a residential dwelling house (C3).
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

Background

2. The appeal concerns a building known as The Pheasant Inn which is situated in a rural area. For many years it was used as a public house until it closed in 2012. The public house use included primarily two public areas. These are referred to as the lower lounge, situated in the oldest part of the building where a small bar is positioned, and the upper lounge, a later addition, so called as there are three steps up to it from the lower lounge. Each lounge has an entrance from the front elevation overlooking Britons Lane. There is also a beer cellar accessed via a trap door behind the bar and public toilets to the rear of the building.
3. The building also has a generous area of residential accommodation comprising a kitchen/diner, a living room and a utility room at ground level and five bedrooms and two bathrooms at first floor level. It is situated in a large plot set back from the road with a hard standing area to the front and lawns to the side and rear. Some of this external space was used as a pub garden while the area to the rear of the building was for private garden purposes, in connection with the residential use.
4. After the public house closed, the appellants began to use the lower and upper lounges some time later for residential purposes and incorporated their use into the residential use of the rest of the building. I will describe their actions in detail in due course.

5. Prior to the submission of the application, the appellants sought planning permission in 2004 to use the building for residential purposes. This application was refused and dismissed on appeal. Thereafter the public house closed on the 31 March 2012 and the appellants submitted another application for residential use in June 2012. This application was also refused and dismissed on appeal. For a period of time the building was listed as an Asset of Community Value. This means that if the appellants had decided to sell, a moratorium period would be triggered that would allow the community to bid to purchase the property on the open market. The listing expired on the 11 June 2018.
6. From all I have read and following my inspection of the site, it is considered that before the public house closed the site comprised one planning unit in a mixed use as a public house and residential unit. The appellants now seek to establish that the use of the whole property for residential purposes is lawful.

Main Issue

7. The main issue is whether the Council's refusal to issue a certificate of lawfulness was well founded. That turns on whether the appellants can show, on the balance of probabilities, that the material change of use to a dwelling house took place more than four years before the date of the application (that is the 21 November 2013, the relevant date). The appellants also have to show that the use has continued, without material interruption, thereafter so as to be immune from enforcement.

Reasons

The appellants' case

8. The appellants have submitted a significant amount of documentary evidence to demonstrate the lawfulness of their case. It comprises, in the main, a statutory declaration from Mr Reed, with various appendices, and a statutory declaration from Mr S Butler, a former Licensing Magistrate. There are also numerous letters of support from friends and former users of the public house who confirm the appellants' claims. Following the refusal of the application, there are also additional letters of support and photographs of the property from Britons Lane.
9. The public house use ceased in March 2012 and Mr Reed states "Immediately from this point" he began to use the lower and upper lounge for residential purposes. This was because, in the main, these rooms were warmer than his living room to the rear of the building. This room was a later addition to the building and has no cavity wall insulation. In the winter months when it is heated there is a lot of condensation. This was tolerated when the public house was open as the appellants spent most of their time working in the public house.
10. Mr Reed then states after the second appeal decision was issued on the 27 August 2013, that he began works to convert/change the former bar areas to living accommodation. The fitted carpet was removed from the lower lounge and rugs were placed on the tiled floor. Two sofas, a footstool, a table lamp, and a coffee table were also brought into the room, together with the television, family photographs and ornaments. He also states "At around this time" he chose to relocate The Pheasant Inn hanging sign to the wall in the

lower lounge but according to the dated photographs, this does not appear until November 2015.

11. In the upper lounge, the appellant placed a large dining table, a bookcase, ornaments, a table lamp, a radio and family photographs. All furniture associated with the public house that was no longer needed was sold at auction. Looking at the photographs this appears to have comprised mainly small tables and chairs which are no longer present but the appellants have kept a bench and a pew.
12. In the bar area, all beer pumps, pulls, optics and glasses were removed and the cellar was cleared of all pipe work. The shelves behind the bar are now used to store wine, music/CDs and various homemade jams and chutneys. A heavy curtain has also been fitted across the bar area. Externally, all signage together with all outdoor seating and garden furniture was removed and in September 2013 works began to enclose the frontage of the property with a fence and hedge. The quotation for the work is dated the 16 August 2013. Thus, Mr Reed states "By September 2013", the former public bar area and associated space was used solely for residential purposes.
13. To evidence continuous residential use, the appellants include photographs of occasions which show their family relaxing in both rooms and friends and family at dinners and gatherings. The actual photographs from 2013 and 2014 are not dated but the appellants provide a date whereas those from 2015 are dated on the actual photograph.
14. During the determination of the application, Mr Reed submitted a letter dated the 15 February 2018 in which he gives further information about how he has used the building since the closure of the public house. When it was in operation, he always made use of the door into the utility room as his main entrance door to access the building. After the public house closed, he began using the door into the lower lounge as his main entrance into the property.
15. The second statutory declaration is by Mr Butler. He met the appellants about 1990 when he was the Licensing Magistrate. Part of his duties was to visit public houses to carry out inspections until 2003, when the licensing regime passed to the Council. He became a friend of the appellants and states he has seen the inside of the public house before and after the works carried out by them. In particular, he recalls around October 2013 driving past the premises and seeing the new fence and hedge. He also states he noted the main bar areas to the front of the property had changed in appearance and were being used as part of the residential accommodation. He includes a photograph dated the 11 July 2017 with his declaration. This shows him sitting in the lower lounge and he states the arrangement of the furniture has been the same since August 2013.
16. The letters supporting the appellants' claims are from the occupier of a nearby property, a former neighbour from 2009 to 2017, a maintenance man, a family member and friends who have visited the property when it was in use as a public house and afterwards. All remark on the use of the former public house space as having been turned into a home by the appellants. The maintenance man confirmed he removed light fittings no longer needed and all the public house signage. A former neighbour, who looked after the property when the appellants were away, used to feed the cat and switch the lights on and off. As a result, they saw how the former public house area had changed.

17. During the determination of the application more letters of support were received from neighbours, friends and family. Many confirm that they knew what the lower lounge and upper lounge looked like when the public house was open and how the rooms had changed and been used after the public house was closed. Other comments made point out that from Britons Lane it is impossible to see much inside the lower lounge due to the small windows; from a neighbouring property it is possible to see a light shining through the side window in the lower lounge of an evening; and that changes can be seen through the open lower lounge doorway.
18. After the application was determined and in order to support the appeal there is a further bundle of letters from people who have written previously as well as from the children of the appellants. All express surprise at the decision and the way their comments were summarised in the Council's officer's report. They write to reaffirm that they have seen and experienced continuous residential use of the former public house areas. They provide some more details of residential use such as seeing shopping being taken through the lower lounge door; that when it was a public house making use of the kitchen for coffee and meals and how that has changed now to the former public house areas; and what can be seen from Britons Lane depends on a variety of factors.
19. Finally, the appellants submit photographs of the property during the evening with the lights on and off and the curtains opened and closed. These seek to make the point that with the lights on and curtains closed in the lower lounge, it is not possible to see any light when passing directly in front of the building to gauge whether anyone is using that room. Other photographs show that from two neighbouring properties it is possible to see a light on from the side window of the lower lounge even in the evening.

The Council's case

20. This is based on a number of letters from people who live in the area and further afield. Many state that they walk/drive/cycle past the site on a regular basis and that they have kept an eye on the place since the last appeal decision. At no time has anyone seen any lights on or any activity or smoke from the chimneys in the last four years. Some state that they can still see the small tables and chairs that were part of the public house and that there has been frost or condensation on the windows. Most comment that they have only seen activity since the application was submitted.
21. In addition, the Council state that the public toilets remain in situ and the commercial cooking equipment (fryer and extract) remain as well. The living room at the rear of the building also remains furnished as a lounge.

Assessment

22. In an appeal relating to an LDC, the burden of proving relevant facts rests with the appellant and the test of the evidence is the balance of probabilities. The appellant's own evidence does not have to be corroborated by 'independent' evidence. If there is no evidence to contradict or otherwise make the appellant's version of events less than probable, the appellant's evidence alone may be sufficient to justify the grant of a certificate. This is provided that it is sufficiently precise and unambiguous.

23. It has been held in case law that in assessing when the change of use of premises to residential use has taken place, the physical state of the premises is very important but it is not decisive. The actual, intended or attempted use is also important but again, it is not decisive, as these matters have to be looked at in the round.
24. From all I have read and seen, it seems to me that it was the appellants' clear intention to make use of the whole property as a residential unit following the last appeal decision in August 2013. This is demonstrated by the erection of a fence and the planting of a hedge to enclose the forecourt and the re-arrangement of the furniture in the lower and upper lounges. In particular, photographs show that the lower lounge contained small tables and hard back chairs when it was a public house. In their place now there are two sofas, a padded footstool, a coffee table and a television. A small table has been kept, as also a bench from when the room was a bar but it now contains family mementos and framed photographs, which are visible in all the appellants' submitted photographs. In addition, the old fitted carpet has been removed and in its place there are now new rugs.
25. Similar changes have taken place to the upper lounge where there has been the removal of most of the bar furniture, save for a pew and the fitted window seat, and the introduction of a dining table, chairs and personal effects such as a bookcase, ornaments and a radio.
26. The Council take the view that the level of physical alterations is minimal as the public toilets, the commercial cooking equipment in the kitchen, the wooden bar and some bar furniture and the living room at the rear of the building remains furnished.
27. However, beginning with the living room, it is not unusual in a building this size for there to be two sitting areas. The living room is described as being cold in the winter but to my mind it is possible it is used in the summer as it is a light and airy room and I saw it has a view over some of the garden. Just because a room is unused, it does not mean that the furniture is removed. In the same way as a guest bedroom is largely dormant most of the time, nevertheless the bed remains ready to be used. For me, the most telling aspect of the appellants' intentions is the repositioning of the television from the living room to the lower lounge. The photographs over the years show that it has also been upgraded to a better model and this is a firm indication that in the evenings the lower lounge is where the appellants have been relaxing over the years.
28. The size of the commercial cooking equipment is modest and appears to be no bigger than domestic deep fat fryers available on the market today. One of the fryers though has been removed leaving just one on the worktop and the photographs show they are easily moved around. This is no different from a large food processor which might be placed on the worktop by a keen amateur cook. The extraction equipment is also no larger than what could be installed over a range cooker, which are fashionable at present. As the children of the appellants point out, their parents are not the generation that throws things away simply because they are old.
29. This brings me to the retention of some of the public house "furniture". It would appear that the appellants have carefully considered what would still be of use and would fit the age and style of the building in choosing what to keep.

- There is no doubt though, that with the removal of the bar pumps and pipe work from the bar, the appellants' intention was to cease the public house use and keep the bar as a memento of the history of the building together with the former hanging sign, now affixed to the wall in the lower lounge.
30. With regard to the former public toilets, although the appellants have not said so, it is considered their removal would be expensive and a matter that they might not wish to deal with, if at all, prior to the determination of the LDC. In the meantime, they use them for domestic storage and as a convenient ground floor toilet.
 31. I turn now to consider "continuous use". Some third parties question whether the lower and upper lounges have been continuously used since the 21 November 2013. This is because they regularly pass the site on foot, by bicycle or in a car at all times of the day and evening and do not see activity in the lower and upper lounges.
 32. This however could be for a number of reasons. At the site visit I saw that the lower lounge windows are small and sit slightly below the level of the road due to the fall of the land. There was also a tree at the western edge of the property and parked cars on the frontage that would impede a clear view of the windows at times. If passing in a car, even at a low speed, I doubt much would be seen. For walkers and cyclists, unless someone was standing up in the lower lounge, people sitting on the sofa would not be seen as it is so low. This is apparent from some of the appellants' photographs.
 33. The upper lounge has a large bay sash window which affords a good view into this room from Britons Lane over the front boundary hedge. The appellants' photographs show that this room is used for dining and other activities that require good light, such as reading or sewing. There were also photographs of social gatherings with the curtains open, which would have been visible to anyone passing by at the time.
 34. Some third parties refer to these rooms being in darkness of an evening and therefore question whether the rooms have been continuously used. The appellants' photographs show though with the curtains drawn in the lower lounge it is not possible to see whether the lights are on from Britons Lane. This is because the curtains have pelmets and are very full. The curtains in the upper lounge appeared to be thinner and the lights are visible through them but as this room is used for dining, the lights would only be on for a short period before the appellants retired to the lower lounge to relax. The nearest neighbours with a good view of the side window in the lower lounge both state that they regularly see lights shining through this window. The appellants' photographs also show this window with a light on in the evening is visible from those properties.
 35. With regard to the absence of smoke from the chimneys in the lower and upper lounges, at the site visit I saw that there is a multi-fuel burner in the upper lounge that provides hot water for the whole property. Mr Reed states that this is lit every day for six months of the year to heat the radiators as well. The photographs also show that the fire in the lower lounge is also lit at times.
 36. As to the supposition that although the rooms are furnished for residential use, they are only used as such on an occasional basis when friends and family visit, it is considered that this is most unlikely. This is for the simple reason that

most people would not go to the extent of fundamentally re-arranging their living accommodation if it was only to be used seldomly.

37. Remarks have been made that the appellants' evidence is only derived from family and friends. However, it is not clear where else they would obtain evidence if not from those who have regularly stayed with them over the years and been entertained before and after the changes were made. It seems to me that they are best placed to support the appellants' case. In any event, the maintenance man who is, it seems, neither family nor friend, supports their case.
38. The Council also refer to the marketing of the public house to support their refusal. The appellants' estate agent confirms though whilst the premises have remained on his books there has been no active marketing for a number of years. Even if there had been, that does not demonstrate the lack of a residential use of the lower and upper lounges.
39. In arriving at my conclusion I am conscious that the LDC application has attracted widespread opposition locally expressed through a number of individual letters. It is inevitable when seeking to document a material change of use that sometimes some of the evidence is inconsistent. For example, Mr Reed remembers putting up the public house sign in the lower lounge earlier than the photographs record. The Council also see contradictions in Mr Butler's evidence but this is not apparent to me when the relevant date is the 21 November 2013 in any event. This is why the test for the evidence is "on the balance of probabilities", namely what is more likely than not. That balance of the evidence need only be slightly more than half in order to satisfy the test but that is not to say that what has been submitted by those who challenge the appellants' evidence is untrue.
40. It is considered, whilst there appears to be some minor inconsistencies, having regard to the totality of the evidence, they do not make the appellants' version of events less than probable. In my view the appellants' evidence is sufficiently precise and unambiguous to support the residential use of the former public house areas and, as such, I conclude that the material change of use of the building to residential took place before the relevant date. The development is therefore lawful.

Conclusion

41. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the material change of use from a public house (A4) to a residential dwelling house (C3) was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

D Fleming

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 21 November 2017 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The material change of use from a public house (A4) to a residential dwelling house (C3) took place by 21 November 2013 at the latest. This use became lawful by continuing for a period of over four years prior to the date of submission of the application and does not contravene the requirements of any enforcement notice in force.

Signed

D Fleming

Inspector

Date: 20 December 2019

Reference: APP/L3245/X/18/3215230

First Schedule

The material change of use from a public house (A4) to a residential dwelling house (C3).

Second Schedule

Land at: The former Pheasant Inn, Britons Lane, The Smithies, Bridgenorth
WV16 4TA

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

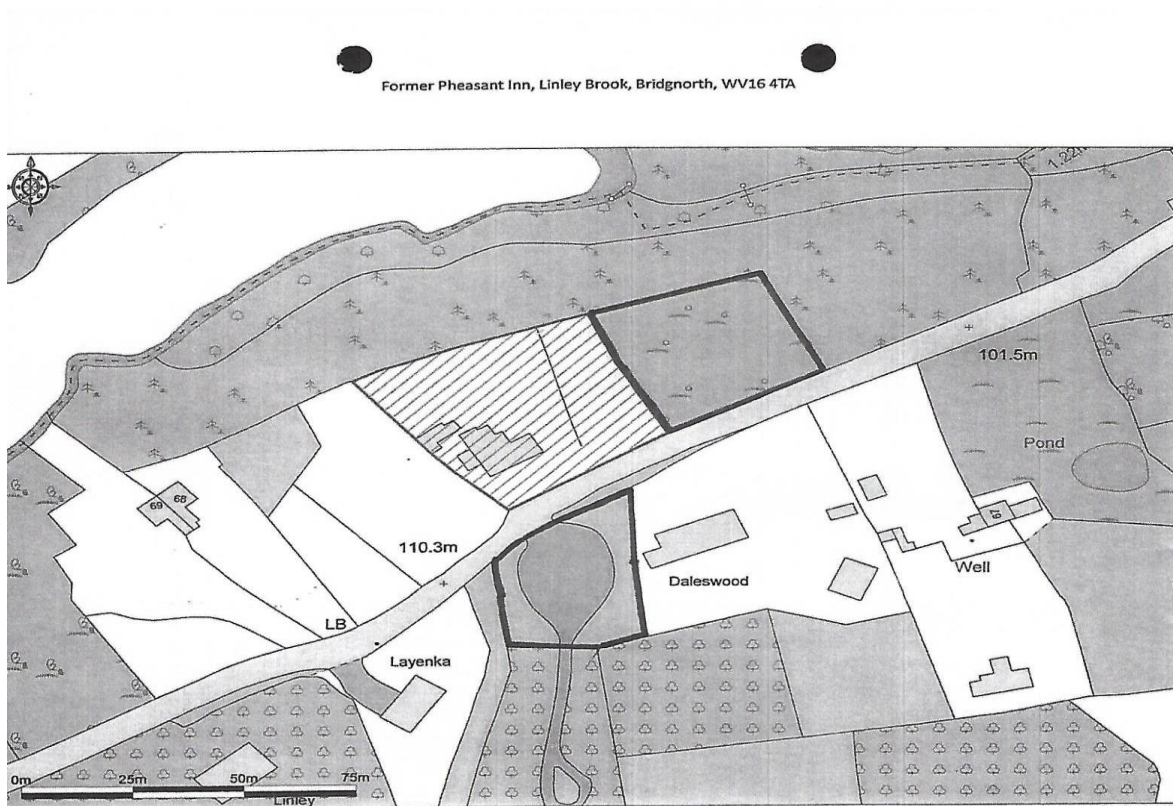
This is the plan referred to in the Lawful Development Certificate dated:20 December 2019

by **D Fleming BA (Hons) MRTPI**

Land at: The former Pheasant Inn, Britons Lane, The Smithies, Bridgnorth
WV16 4TA

Reference: APP/L3245/X/18/3215230

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Appeal Decision

Site visit made on 11 November 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2019

Appeal Ref: APP/L3245/W/19/3235499

Spring Cottage, Green Lane, Exfords Green, Shrewsbury, SY5 8HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Ian Galliers against the decision of Shropshire Council.
 - The application Ref 18/05623/FUL, dated 5 December 2018, was refused by notice dated 23 May 2019.
 - The development proposed is the erection of a pair of 3 bedroom semi-detached houses as an Exception Site together with associated driveways, landscape and drainage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. Notwithstanding the reason for refusal as set out in the Council's decision notice, the Development Management Report identifies the Council's objection to the effect of the proposal on the character and appearance of the area. This is elaborated upon further in the Council's Statement of Case¹.
3. In light of the above, the main issues are whether the development would be located in a suitable location having regard to the Council's housing strategy and its effect on the character and appearance of the area.

Reasons

Location

4. Policy CS4 of the Shropshire Council Core Strategy (CS) 2011 sets out how new housing will be delivered in the rural areas by focusing it in Community Hubs and Community Clusters. There is no dispute that the appeal site lies within the Longden, Hook-a-Gate, Annscroft, Longden Common and Lower Common/Exfords Green Community Cluster as identified in Policy S16.2(xi) of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015.
5. Policy S16.2(xi) states that within this Community Cluster development by infilling, conversions of buildings and groups of dwellings may be acceptable on suitable sites within the villages, with a housing guideline of approximately 10-50 additional dwellings over the period to 2026. Of these dwellings, 25-30 are

¹ Paragraph 6.2

- to be in Longden village, with the remainder to be spread evenly amongst the other settlements.
6. The appeal site forms part of a field. Spring Cottage lies to the east, on the opposite side of Green Lane. To the south, on the opposite side of the road junction, is a bungalow and to the north west is another dwelling. Whilst there are dwellings within proximity of the site, these are not close enough for the site to be considered as an infill site between existing development. Furthermore, the proposal does not constitute a barn conversion and there is no argument advanced that the proposal should be considered on the basis of a group of dwellings. Accordingly, for the purposes of Policy S16.2(xi), the appeal site does not represent a suitable location for new housing development.
 7. I have had regard to the Council's email, dated 4 June 2019 confirming that the site is suitable for a single plot exception site under Core Strategy Policy CS11 and the Type and Affordability of Housing SPD. Whilst a copy of Policy CS11 is not before me, the appeal proposal is for two dwellings and therefore it seems to me that it cannot be considered to be a 'single plot exception'. In any event, the Council is not bound by the informal advice of an officer.
 8. Even if I were to find that the proposal was considered to be infilling, a barn conversion or a group of dwellings, there is no dispute between the parties that the housing guideline has already been exceeded. A total of eleven dwellings have been completed/granted planning permission in Lower Common/Exfords Green. As Policy S16.2(xi) states that the 20-25 remaining dwellings outside of Longden would be spread evenly amongst the other settlements, the completed sites and outstanding permissions in Lower Common/Exfords Green already exceed this guideline. Despite the two settlements being physically separate, the presence of the 'Y' in between Lower Common and Exfords Green as set out in Policy 16.2(xi) is clearly explicit in that, for the purpose of the housing guidelines, the two settlements are to be considered as one.
 9. Where development would result in the number of completions plus outstanding permissions providing more dwellings than the housing guideline, Policy MD3 of the SAMDev sets out five matters that regard must be had to. The proposal would result in thirteen dwellings being completed/have outstanding permission within Lower Common/Exford Green. This would equate to over half of the housing guideline of 20-25 dwellings being met in the one settlement (for the purposes of Policy S16.2(xi)) with the remaining half having to be split between the other three settlements. Were these settlements to be equally developed, which Policy S16.2(xi) clearly envisages, then this would significantly exceed the overall housing guideline. Whilst I accept that the housing guideline is just that – a guideline – such a significant exceedance of it would likely place undue stress on local services and facilities within the Community Cluster.
 10. There is no evidence before me that the outstanding permissions would not come forward before 2026. I note that a reserved matters application has recently been submitted for the site referred to with outline planning permission.
 11. The proposal would provide an affordable dwelling, which would make a positive contribution to meeting local need. Furthermore, the open market

dwelling would also make a positive contribution to the supply of housing in the county as a whole. However, given the small scale of the development, such benefits would be limited.

12. The site would be within the settlement of Lower Common/Exfords Green, which has been identified as a settlement for growth and therefore has some sustainable credentials. However, given the scale of the development, any positive contribution to the social, environmental and economic dimensions of sustainable development would be limited. Consequently, the proposal would fail to satisfy all of the requirements of Policy MD3 of the SAMdev.
13. I find therefore that the site is not a suitable location for housing, having regard to the Council's housing strategy. As such, it would be contrary to Policies CS4 of the CS and Policies MD3 and S16.2(xi) of the SAMDev. Furthermore, it would fail to accord with the housing supply objectives of the National Planning Policy Framework (the Framework).

Character and Appearance

14. Although Exfords Green contains a number of properties, these are generally sporadic in their positioning, comprising detached dwellings set within large grounds and farmsteads. There is a cluster of properties to the north west of the appeal site, which could reasonably be argued as the centre of the village. Other properties are interspersed by open fields. Overall, the area has a very open, rural character.
15. The appeal site forms part of a larger field, which makes a positive contribution to the open, agricultural nature of the immediate area and the rural setting. Whilst there are properties located nearby, the separation distances between them as a result of open fields, including the appeal site, retains the openness of the area.
16. The proposed dwellings would introduce a form of built development where there is currently none. As a consequence of the built form, the dwellings would erode the openness of the site and therefore detract from the openness of the area. Furthermore, to some extent, they would bridge the gap between Spring Cottage and the dwelling immediately to the west, resulting in a much denser form of development than currently exists and creating a more urban form of development along this stretch of Green Lane.
17. I acknowledge that additional planting could be provided to assist in screening the development. Nevertheless, it would still be clearly visible from nearby public vantage points.
18. I have had regard to the other properties granted planning permission as referred to me by the appellant. However, these would appear to be sited adjacent to existing properties, comprise infill plots, or, as confirmed by the Council, were allowed under a different planning regime than currently exists. In any event, each case must be determined on its own merits.
19. I find therefore that the proposal would have a significantly harmful effect on the character and appearance of the area, contrary to Policy CS6 of the CS and Policy MD2 of the SAMDev, which, amongst other matters, seek to ensure that development is designed to a high quality and contributes to and respects local distinctiveness.

Other Matters

20. Each of the proposed dwellings would be 3 bedroomed and have a floor area no greater than 100 sqm, which accords with the Longden Parish Plan 2017-2022 and the Shropshire Type and Affordability of Housing SPD 2012 which seek to ensure that new dwellings are small and affordable. The completed houses in the locality as referred to me by the appellant are much larger than those proposed. Furthermore, the development would be relatively small in scale and therefore would likely be constructed in the near future. However, whilst these matters weigh in favour of the proposal and meet an identifiable need for smaller dwelling, I do not consider that they outweigh the conflict the proposal has with the Council's overall housing strategy when considering the development plan as a whole.
21. I acknowledge the appellant's contention that the Parish Council support the proposal, as indicated in their response dated 18th January 2019. However, when read in its full context, the support is on the basis that the occupancy of the dwellings is for local people only. Whilst the affordable dwelling could be restricted as such, there is no mechanism to prevent the open market dwelling being occupied by non-local people. I have taken into account that the open market dwelling would be occupied by the appellant's daughter and family, who have close links with the area. However, there is no mechanism before me to ensure that the dwelling would remain in her occupancy or the occupancy of anyone else with local links. Accordingly, I attribute this matter very limited weight.

Conclusion

22. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR



Appeal Decision

Site visit made on 3 September 2019

by **M Aqbal BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 January 2020

Appeal Ref: APP/L3245/W/19/3228511

Grove Barn, The Grove, Pitchford Road, Condover, Shrewsbury, Shropshire SY5 7DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Mr and Mrs S Jones against the decision of Shropshire Council.
 - The application Ref 18/04077/PMBPA, dated 29 August 2018, was refused by notice dated 12 November 2018.
 - The development proposed is an application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have been informed by the agent in writing that Mr Jones who was one of the appellants, has sadly passed away. Further, that Mrs Jones (the other appellant) is responsible for the estate. Therefore, the appeal proceeds on this basis.
3. The description of the development proposed as set out on the appellants' application form is unclear. The Council's decision notice describes the proposal as follows: '*Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use*'. I have used this description in the above heading as it more accurately reflects the development for which prior approval is sought and I shall determine the appeal on this basis.

Background Information

4. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GDPO) sets out that development is classed as permitted development if it consists of: (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3(dwellinghouses) of the Schedule to the Use Classes Order; or (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class

- C3(dwellinghouses) of that Schedule. This is subject to a number of situations where such development is not permitted, listed under paragraph Q.1, and, subject to compliance with Conditions, as set out under paragraph Q.2.
5. In this case, having regard to the Council's submissions it has raised issues in relation to the size of the "curtilage" of the agricultural building and the exclusions in paragraphs Q.1(a) and Q.1(i). The Council has not raised any matters in respect of the Conditions in paragraph Q.2. and I have no reason to take a different approach.
 6. Paragraph Q.1(a) of the GPDO is clear that development is not permitted if '*...the site was not used solely for an agricultural use as part of an established agricultural unit (i) on 20th March 2013 or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use*'. Based on the appellant's application form, for the purposes of this appeal the relevant date is 20 March 2013.
 7. Paragraph X of the GPDO says that for the purposes of Part 3 "curtilage" means, (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.
 8. Paragraph Q.1 (i) of the GPDO states that development under Class Q(b) would consist of building operations other than— (i) the installation or replacement of— (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.

Main Issue

9. Against that background, the main issue is: Whether the proposed change of use constitutes permitted development pursuant to Schedule 2, Part 3, Class Q of the GPDO, having particular regard to: (1) whether the site was used solely for an agricultural use as part of an established agricultural unit on the required date; (2) whether the size of the proposed curtilage exceeds that allowed; and (3) whether the building operations are reasonably necessary for the building to function as a dwellinghouse.

Reasons

- (1) Whether the site was used solely for an agricultural use as part of an established agricultural unit on the date required.
10. It is for the appellant(s) to demonstrate that on the relevant date, the site was used solely for an agricultural use as part of an established agricultural unit, in compliance with Paragraph Q.1(a).
11. Evidence submitted includes an undated but signed letter from Mr and Mrs, Jones confirming the purchase of a 'Agricultural farm building and lane' from a Mr George Jones on the 29 January 2016. Further, that this building was sub-let by Mr George Jones to Meadow Bank farm for the purpose of the storage of cows from period 2010-2016. At appeal the appellants submitted a further

similar letter¹ but this is also signed by representatives of Meadow Bank farm. Although these letters refer to an 'Agricultural farm building' this is not clearly identified, for example by way of a supporting plan. Moreover, although the letters advise that the building was sub-let for the purpose of the storage of cows between 2010-2016 to Meadow Bank farm, they do not clearly evidence that the building subject of this appeal was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013.

12. An undated photo which is said to have been taken in 2016 by the appellants, following the purchase of Grove Barn which includes the appeal site, shows part of the internal arrangement of the agricultural building. As this was taken after the 20 March 2013, it adds no weight to the appellants' case. There is also reference to an Email dated 5 October 2018, however a copy of this is not before me.
13. A letter² from an immediate neighbour to the site confirms use of 'panel sided barn' building from the first summer after 2010 and for several years afterwards was used to house calves in association with a nearby dairy farm. Nonetheless, this letter does not clearly identify the use of the building on 20 March 2013.
14. For the foregoing reasons, I conclude that the available evidence fails to show that on the 20 March 2013 the site was used solely for an agricultural use as part of an established agricultural unit. The proposal therefore does not comply with criteria under Q.1(a) of Class Q.

(2) The size of the proposed curtilage.

15. The application form for the proposal identifies that the area of land within its curtilage which is proposed for change of use is 349 sqm inclusive of garden area at 122 sqm. This area is shown on the 'Proposed Block Plan' – drawing no. 71044:1004 submitted with the application. This includes a proposed garden to the north-east of the building, land to the south-east and an area to the south-west shown for parking. Even if I were to accept that the garden is incorrectly annotated on this drawing and actually measures 118sqm to match the area occupied by the building, the total land immediately beside or around the building exceeds the floor area covered by the building.
16. Consequently, on this issue, I conclude that the proposal does not meet the requirements of Class Q of the GPDO with regard to the definition of curtilage in Part 3, Paragraph X.

(3) Whether the building operations are reasonably necessary for the building to function as a dwellinghouse.

17. As established within the PPG³, building works are allowed under the right permitting agricultural buildings to change to residential use, but the right assumes that the agricultural building is capable of functioning as a dwelling. Building operations can include those that would affect the external appearance of the building; though it is not the intention to allow rebuilding work that would be go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, only when the existing building is already

¹ Letter from appellants submitted with 'Reply to Shropshire Councils Statement of Case' dated 12 November 2018

² Letter from Tom Lowe dated 1 October 2018

³ Paragraph: 105 Reference ID: 13-105-20180615

- suitable for conversion to residential use would it be considered to have the permitted development right.
18. The building proposed to be converted comprises of a steel portal frame substructure on a concrete floor. Along three of its sides the frame is infilled with blockwork walls that are topped with timber cladding. The front of the building incorporates three large doors. The roof is constructed from asbestos sheeting over steel purlins.
 19. On the basis of the submitted information, to facilitate the change of use the existing substructure of the building is largely to be retained along with the floor and blockwork walls. The extent of the proposed works includes the infilling of any open sides of the building with blockwork. Timber frame insulated walls would then be added to these internally and covered with fire lined board and skim. Externally, the building is to be timber clad and would include new doors and windows. The roof purlins are to be replaced as would be the existing roof material for plain tiles. In light of this, the extent of the proposed works would fall within the provisions of Class Q.1(i)(bb), and do not amount to rebuilding work.
 20. The Design and Access Statement (DAS) states that no structural work is considered to be necessary to convert the building for residential use. The DAS also incorporates a 'Structural Appraisal' (SA) this concludes that the barn is in very good condition with no obvious movement. Further, that removing the metal doors and infilling with blockwork will provide additional structural bonding and strength to the fabric of the building.
 21. While there is nothing to suggest that the SA has been undertaken by an Engineer or any other suitably qualified person, from my visit and taking account of all the available information, I am satisfied that the underlying substructure appears to have maintained its integrity. Furthermore, the additional walls which are supported by Class Q.1(i)(bb) would strengthen this.
 22. In light of the foregoing reasons, I am satisfied that the extent of works proposed would be reasonably necessary for the building to function as a dwellinghouse. Notwithstanding this, I have also found that the proposal does not meet the definition of curtilage as defined in Part 3, Paragraph X of the GPDO and also does not comply with criteria under Q.1(a) of Class Q of the GPDO. Consequently, the proposed change of use is not permitted development pursuant to Schedule 2, Part 3, Class Q of the GPDO.

Conclusion

23. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR



Appeal Decision

Site visit made on 6 January 2020

by **Alison Partington BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th January 2020

Appeal Ref: APP/L3245/W/19/3238673

**Tankerville Arms, Shrewsbury Road, Longden, Shrewsbury, Shropshire
SY5 8EX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Dixon against the decision of Shropshire Council.
 - The application Ref 19/00344/FUL, dated 21 January 2019, was refused by notice dated 13 August 2019.
 - The development proposed is the erection of three terrace houses following removal of existing single storey extensions.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are:
 - Whether or not the proposal would be likely to result in the unnecessary loss of a valued community facility;
 - The effect of the proposal on the character and appearance of the area; and
 - The effect of the proposal on the significance of a non-designated heritage asset.

Reasons

Planning policy background

3. The development plan for the area consists of the *Shropshire Core Strategy (adopted March 2011)* (SCS) and the *Site Allocations and Management of Development Plan (adopted December 2015)* (SAMDev). The latter provides proposals and policies to help deliver the vision and objectives of the SCS up to 2026. The appellant has suggested that the development plan is out of date because both documents pre-date the *National Planning Policy Framework (February 2019)* (the Framework). Therefore, it is suggested that Framework is more relevant for the determination of the application.
4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that applications for planning permissions should be determined in accordance with the development plan unless material considerations indicate otherwise. Whilst the Framework is a material consideration, paragraph 213 of the Framework makes clear that existing policies should not be considered out-of-date simply

because they were adopted prior to the publication of the Framework. It goes on to say that due weight should be given to them, according to their consistency with the Framework.

5. Moreover, the Council have confirmed that they can presently demonstrate a 6.89 year housing land supply and this has not been disputed by the appellant. As such, this is not a situation that would indicate that policies are out of date either.
6. Therefore, I have determined the appeal in accordance with Section 38(6).

Loss of Community Facility

7. The appeal site relates to part of the Tankerville Arms Public House and the car park associated with it. The buildings are single storey extensions at the side of the main building that are used as a dining area and a pool/games room. It is proposed to remove the extensions and replace them with three houses. I note that in 2016 permissions were granted for the erection of 4 terraced houses on part of the car park behind the public house and the creation of a dwelling through the conversion of another part of the public house¹.
8. Policy CS8 and CS15 of the SCS seek to protect facilities such as public houses that contribute to the quality of life of residents and visitors. Paragraph 92 of the Framework indicates that public houses are one of a range of community facilities that enhance the sustainability of communities and residential environments. It goes on to state that planning decisions should “guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day to day needs.”
9. Whilst the policies of the SCS seek to protect all existing facilities and services rather than “valued” ones, they are broadly consistent with the Framework. The Framework does not provide any guidance as to what makes a facility “valued” and I note that there are letters from the local community both supporting and objecting to the proposal. Nevertheless, the Tankerville Arms is the only public house and so is an important asset in the village.
10. The proposal would not result in the loss of the public house as a whole but a reduction in its size. Nevertheless, consideration has to be given to the consequence of the proposal for the remaining public house and whether it would significantly increase the likelihood of the remaining facility being lost.
11. The appellant has indicated that in its current form the public house is too large and not viable and the reduction in size would make a more friendly, welcoming atmosphere as well as reducing overheads and fixed costs so helping the viability of the remaining pub. To this end a number of financial documents were submitted by the appellant which he states show that the public house is not viable. These documents are the accounts for a pub called the Bull in the Barne and a list of expenses that appear to relate to both the Tankerville Arms and the Bull. However, as none of the financial documentation relates solely to the Tankerville Arms the profitability or otherwise of this particular public house cannot be seen.
12. Moreover, the appellant’s evidence indicates that in order to make a profit at least 32 patrons are required. Whilst he suggests that the remaining building

¹ Application References 15/04590/FUL and 16/03347/FUL

would provide around 40 seats, the plans indicate it would only be capable of having around 16 seats, which is significantly less than the number stated to be needed to be profitable. In addition, no business plans have been submitted to show the likely viability of the smaller public house. Given this, it is uncertain as to whether the proposal would actually result in the remaining public house being capable of being a viable enterprise. As such, I am not persuaded that the proposal would ensure the retention of this community facility.

13. Whilst it is stated that the appellant is the third owner of the public house in 5 years, there is no evidence to show that the public house has undergone any marketing exercise to ascertain whether there might be others able to operate the public house in a different format that might be capable of being viable. I note that the appellant highlights that there are 2 other public houses within 5 miles of the village and that the village hall also provides some "competition" for the public house.
14. Bringing these points together, public houses are often a valued part of a village community, and the letters of objection from third parties show that there are people in the village that do value this facility. Whilst it is only proposed to reduce the size of the existing public house, I have not been provided with adequate evidence to show that the existing public house is unviable, that attempts have been made to secure an alternative future as it is, or that the proposed smaller public house would be viable.
15. Consequently, I consider that the proposed reduction in size of the facility would be likely to result in the unnecessary loss of a community facility, contrary to Policy CS8 and CS15 of the SCS and paragraph 92 of the Framework outlined above.

Character and Appearance

16. The village comprises a varied mix of housing, including detached, semi-detached and terraced dwellings. These vary in age, design and materials, but are generally set in spacious plots. Even the smaller houses such as the terraced houses opposite the appeal site have long front gardens that contribute to a sense of spaciousness.
17. The three proposed dwellings would occupy the same footprint as the existing extensions to the public house but would have a greater height and mass. They would have no front gardens and small rear gardens, particularly plot 3. This limited plot size would give the development a cramped appearance that would be out of keeping with the general character of housing in the village.
18. Whilst I note the modern houses that have been built to the rear of the public house also have uncharacteristically small plots, their position to the rear of the site means visibility of them is limited. Unlike these houses, the proposed dwellings would be far more prominent in the street scene and so their incongruity would have a much greater detrimental impact on the character and appearance of the area.
19. Therefore, the proposal would unacceptably harm the character and appearance of the area. Accordingly, it would conflict with Policies CS6 of the SCS and MD2 of the SAMDev which require developments to have a high quality of design that respects and reflects local characteristics. It would also

be contrary to paragraph 127 of the Framework which requires developments to have a high quality of design that adds to the overall quality of an area and are sympathetic to the local built environment.

Heritage Asset

20. The public house is located within the core area of the village, close to the church and post office / shop. The Council's evidence indicates that the public house has been there since at least the mid-nineteenth century. The building contributes to the character of the village and helps to evidence the village's historic built form. Notwithstanding the appellant's view, given these characteristics I agree with the Council that it is a non-designated heritage asset.
21. Paragraph 197 of the Framework indicates that in making decisions the effect of an application on the significance of a non-designated heritage asset should be taken into account, and that a balanced judgement will be required having regard to the scale of the harm or loss and the significance of the heritage asset.
22. No heritage assessment was submitted with the application or the appeal. Whilst I note the appellant's comments in this regard, as a heritage asset, albeit a non-designated one, the Framework (paragraph 189) indicates that the applicant should describe the significance of the heritage asset affected by a proposal, providing sufficient information to understand the potential impact of the proposal on the asset's significance. As a non-designated asset, I consider that the building has moderate historical significance.
23. Whilst the extensions that would be demolished do not appear to be original, there is no evidence as to when they date from or to be able to assess the impact that would result from their demolition. Nevertheless, in the absence of any evidence to the contrary, as the proposal would result in the total loss of part of a heritage asset, I consider the resulting harm to its significance would be considerable.
24. Whilst the proposed houses would have a similar footprint, their volume and mass would be significantly greater than the existing buildings. As such, they would compete with, and detract from the remaining part of the building in a way that the current extensions do not. Moreover, their clearly domestic character would adversely impact on the character of the area surrounding what would remain of the public house. The introduction of a hipped roof to the end property would also be out of keeping with the rest of the building.
25. Paragraph 192 of the Framework states that in decision making account should be taken of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The appellant has indicated that although consideration was given to the conversion of the existing buildings rather than demolition, dwellings created from conversion would not be able to benefit from the same carbon neutral features as the new build dwellings.
26. However, there is no evidence to indicate that consideration has been given as to whether any other viable use could be found for this part of the building, and as outlined above the evidence submitted is insufficient to show that the existing use of the building as a public house is itself unviable. As a result,

there is no evidence to show that there are not other potential viable uses that would not necessitate the loss of this part of the heritage asset. In the light of the considerations set out in paragraph 192 of the Framework, the loss of part of the building would not be justified.

27. Bringing this all together to apply the balanced judgement required by paragraph 197 of the Framework, the proposal would result in economic benefits during the construction period and spend by future occupiers would benefit the local economy. Whilst the appellant has suggested the proposal would enable the continued provision of a public house in the village, with the associated economic benefits this would bring, there is insufficient evidence to support this assertion.
28. The proposal would contribute to the supply of housing in the area in a village which forms part of a community cluster where the SAMDev expects between 10 and 50 houses would be built up to 2026. The Council have stated that at present 20 houses have already been built within the cluster and another 43 have permission. Given this, and the fact that the Council can demonstrate a 5 year housing land supply, limits the weight I give to this benefit.
29. The appellant has stated that the new houses are designed to be low energy buildings built from sustainable materials and so would be considerably more environmentally sustainable than the existing buildings they would replace. Moreover, the proposal would utilise previously developed land.
30. However, in the light of paragraph 192 of the Framework, the loss of the building is not justified. In the absence of any evidence that there are not other potential viable uses of the site that would not require the demolition of the building, and which could also share some of these benefits, I consider that the benefits of the proposed development would not outweigh the loss of the non-designated heritage asset.
31. As a result, the proposal would be contrary to the Framework as well as to Policy MD13 of the SAMDev which seeks to protect, conserve and enhance heritage assets.

Conclusion

32. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR

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Appeal Decision

Site visit made on 17 January 2020

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2020

Appeal Ref: APP/L3245/X/18/3217789

The Birches, Cross Road, Albrighton WV7 3BJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development.
 - The appeal is made by Mr Phillip Broome (Nilsoft Ltd) against the decision of Shropshire Council.
 - The application Ref 18/01496/CPL, dated 27 March 2018, was refused by notice dated 30 May 2018.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is the building of a new leisure area, garages and garden room to serve the existing house on the land.
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Decision

1. The appeal is dismissed.

Main Issue

2. A Lawful Development Certificate (LDC) is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful. Therefore, for the avoidance of doubt, I make clear that the planning merits of the proposed development are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.
3. The main issue is whether the Council's decision to refuse to grant a LDC was well founded with particular regard as to whether it has been demonstrated that the development would be for a purpose incidental to the enjoyment of the dwellinghouse as such and hence permitted development by virtue of the provisions of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

Reasons

4. As part of the appeal, the appellant has provided me with both the approval notice and the plans relating to a lawful development certificate on the same site for the erection of a leisure building, garages and a garden room (Ref No 18/05707/CPL, dated 6 February 2019). This post dates the refusal of the LDC which is the subject of this appeal. The triple garage and the garden room are of the same dimensions as those which are the subject of this appeal, although

the garden room is closer to what is a smaller and internally different leisure building in relative terms.

5. I have no reason to disagree with the view already reached by the Council in respect of the triple garage building and the garden room. In respect of this appeal, and taking into account the evidence that is before me, I consider that as a matter of fact and degree, the triple garage and garden room would be required for a purpose incidental to the enjoyment of the dwellinghouse as such. Whilst the appellant does already have a double garage on the site, I note that he requires a secure building by which he can store trailers, to renovate microlight aircraft on a hobby basis and to house some garden equipment.
6. Whilst I find that the garden room and the triple garage would be permitted development, including compliance with the restrictions set out within paragraphs E.1 to E.3 of the Order, it is nonetheless necessary that the appeal development is considered as a whole. Whilst the proposed leisure building would also comply with the restrictions relating to position and size as outlined within paragraphs E.1. to E.3 of the Order, the point of contention between the main parties relates to whether the leisure building would be "*required for a purpose incidental to the enjoyment of the dwellinghouse as such*": this would need to be satisfied for the proposal to be permitted development under Class E of the GPDO. If a building or enclosure is not required for a purpose that would be incidental to the enjoyment of a dwellinghouse, then it would fall outside the scope of the permitted development rights granted under Class E and planning permission would be required.
7. In respect of whether the proposed building would be required for an incidental dwellinghouse purpose, it is necessary to consider such a proposal in the particular context within which it would be situated: an outbuilding that may be considered incidental to the enjoyment of a substantial dwelling with many occupants and large grounds may not be incidental if situated in the garden of a small cottage with a single occupant. However, size alone is not necessarily a determining factor and a wide range of outbuildings for different purposes may be permitted under Class E, depending on the specific circumstances. Such principles have been established through the Courts with the term "*required*" being interpreted as meaning "*reasonably required*".
8. The leisure building would measure about 216 square metres. It would be a large building when considered against the existing dwellinghouse which I noted on my site visit was in the process of being extended. I acknowledge the health condition of the appellant's wife and hence the requirement to undertake more fitness and leisure activity at home. However, in considering whether the proposed leisure building is reasonably required the onus is on the appellant to make their case. As part of the appellant's justification (i.e. document entitled 'design and access statement') which lead to the approval of the aforementioned LDC development, including a leisure building which would be much smaller than the appeal leisure building, the appellant commented that such a building would '*allow Mrs Broome to independently enjoy life as much as possible within the restrictions of her disability*'.
9. Based on the evidence above, I am not satisfied that the leisure building as proposed is of a size which would be reasonably required. Furthermore, and, in any event, the evidence before me is not persuasive in terms of why there is

a reasonable requirement for two separate WCs, two separate changing room areas and a large internal entrance hall and circulation space. There is also very limited information before me which justifies why it is proposed to have both a 'gym' and a separate 'workout area' which collectively would amount to a sizeable amount of floor area. In addition, and accepting the health condition of Mrs Broome, there is nothing before me to indicate why the proposed 'pool side' area needs to be so large.

Conclusion

10. For the collective reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development was well-founded and that when the appeal development is considered as a whole it should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.
11. In reaching the above conclusion, I am cognisant of the appellant's comment that they would like an '*opinion as to what is legally acceptable in this situation for the building to be compliant with permitted development rules*'. I have determined this appeal on the circumstances of the case. It is not incumbent upon me to provide advice on what other development may or may not be lawful and, in any event, each proposal needs to be considered on the basis of the circumstances that prevail at a particular time.

D Hartley

INSPECTOR

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Appeal Decision

Site visit made on 17 December 2019

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2020

Appeal Ref: APP/L3245/W/19/3238000

The Bayliffs House, 60 Spout Lane, Benthall, Broseley TF12 5QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs S Duboulay against the decision of Shropshire Council.
 - The application Ref 18/04313/FUL, dated 7 September 2018, was refused by notice dated 27 March 2019.
 - The development proposed is the use of land for the stationing of 8 eco-pods for holiday use with associated parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the character and appearance of the Broseley Conservation Area (CA) and the setting of the Grade II listed building at The Bayliffs House, Sprout Lane, Benthall.

Reasons

3. The Bayliff's House is an extended Grade II, two-storey stone and brick dwelling with notable architectural features considered to date from the C16 with later remodelling. The main parties evidence identify it as having historic significance as a consequence of its relationship to the management of the estate associated with nearby Benthall Hall. Accounts suggest that from its initial establishment on a farming basis it has seen a variety of uses, particularly in conjunction with the local industrial heritage. It is currently used as a residential dwelling.
4. The house is isolated within a purposefully formed wide clearing within the more rural western fringe of the CA. The clearing is divided by a driveway which is a public right of way that runs north to south centrally through the open area. An evergreen hedge screens the private residential gardens and field area lying the eastern side of the path. This path forms part of a network of rights of way about the Ironbridge Gorge World Heritage Site a short walk to the northeast.
5. The setting of the building derives from the quiet rural seclusion of the open clearing within the context of the mature woodland which rises notably to the north and western sides. The isolated position of the building close to the footpath subsequently forms a strong focus within and about the clearing. Here, the sense of detachment and solitude reflects its former status and influence in the wider area.

6. The wider CA has considerable historic significance deriving from its association with the Industrial Revolution being a focus for manufacturing and innovation. The area has subsequently seen historic phases of growth and decline but has maintained a strong sense of semi-rural character derived from the woodland areas about Ironbridge Gorge and outlying farmlands.
7. The appeal site lies to the west of the driveway and is a crowned area of rough vegetation with a few tree stands towards its southern edge. The land has a gentle fall from north to south. A timber post and rail fence has been erected along its eastern limit where it borders the footpath.
8. As the site lies within the CA, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to have special regard to the desirability of preserving or enhancing the character or appearance of the CA. Furthermore, Section 66(1) of the Act, requires a decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
9. Paragraph 189 of the National Planning Policy Framework (the Framework) advises that applicants should be required to describe the significance of any heritage assets affected by development and the potential impact of the proposal on the significance. As a minimum the relevant historic environment record should have been consulted and appropriate expertise used.
10. The appellant has submitted an archaeological assessment providing detail of the historic relationship of the appeal site with the house. The document details various phases of development having previously existed in conjunction with the listed building to facilitate agricultural, mineral prospecting, industrial and social uses alongside the associated flows of people and traffic. The industrial heritage is evidenced by the remnants of spoil across northern parts of the site. However, the document fails to assess the effect of the development on either the character and appearance of the CA or the setting of the listed building.
9. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
11. The introduction of the timber pods, associated car park and service infrastructure will give rise to a significant change in the character and appearance of the land. Along with the associated activity, this would cause an urbanising effect that would undermine the semi-natural appearance of the site and reduce its atmosphere of quiet rural seclusion. This would be particularly evident by users of the public footpaths within and about the clearing.
12. Although the appellant submits that use of the pods would generally not accommodate families or pets, the extent of activity at busy times of the day, particularly during holiday periods, would be such that the current character of undeveloped detachment and seclusion would be undermined. The erosion of

- these qualities would consequently fail to preserve or enhance the character and appearance of this part of the CA.
13. Whilst some landscape screening could partly assimilate the development, the introduction of further screen planting along the western side of the footpath would further impair the open nature and singularity of the clearing and therefore fail to preserve its character and appearance.
 14. The proposed use of the land would not have a direct physical impact on the listed building itself. However, the land has a strong association with the dwelling reinforced by the vehicle area and canopied doorway facing on to it. This relationship is strengthened by its context within the confines of the clearing. The development would impose on this close visual association of the land with the building.
 15. The visual clutter of the structures, vehicles and hard standings along with the night time lighting would undermine the sense of isolation and privacy derived from the status of the former bayliff's role. The effect of introducing the proposed use and development into a large part of the site would undermine the focus currently drawn to the building and wider sense of detachment experienced from the adjacent footpath and from the footpaths above the site within the woodland. For those reasons, I conclude that the proposal would fail to preserve the setting of the building.
 16. In the context of the Framework, the extent of overall harm of the proposal to both the CA and the setting of the listed building is no greater than less than substantial. However, less than substantial harm does not equate to a less than substantial planning objection. Paragraph 196 of the Framework confirms that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.
 17. The nature of the development is such that it would generate low level employment opportunities and encourage an increase in tourism through a wider offer of the types of accommodation available locally. The local development plan recognises the potential associated benefits to the local economy including supporting other local businesses. It is agreed by the main parties that such benefits could be provided with little effect in terms of accessibility, neighbouring living conditions or ecological interests on and about the site.
 18. In addition, the proposed use would potentially attract higher numbers of visitors to the site such that the significance of the listed building might be more widely appreciated. It is suggested that the income generated from the development would be reinvested in the upkeep of the building although no detailed evidence of that benefit or mechanism to secure it is provided.
 19. The appellant also suggests that the nature of the structures and surfacing of the parking areas is such that they would not be permanent and could be easily removed if no longer required. However, the necessary infrastructure to accommodate and service the pods along with their scale would result in a development a significant degree of permanence.
 20. Whilst aspects of the development would result in some public benefits that weigh in favour of the development, those social and economic benefits would

not outweigh the less than substantial harm I have identified to the character and appearance of the CA or the setting of the listed building. The proposed development would therefore conflict with Policies CS6, CS16 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy (2011), Policies MD2, MD11 and MD13 of the Shropshire Council Site Allocations and Management of Development Plan (2015) and the Framework as they seek to protect heritage assets and their settings.

Other Matters

20. I have noted the objections from local residents and third parties to the proposal. However, in the light of my findings on the main issues of the appeal, my decision does not turn on these matters. The lack of objections by statutory and non-statutory consultees on other aspects of the development does not comprise a benefit in favour of the proposed development

Conclusion

21. For the above reasons the appeal should be dismissed.

R Hitchcock

INSPECTOR



Appeal Decision

Site visit made on 20 August 2019

by **S D Castle BSC(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28th January 2020

Appeal Ref: APP/L3245/W/19/3230392

Cherry Orchard Farmhouse, Hall Junction with A458 to Church Cottage Junction, Tuckhill, Six Ashes WV15 6EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Dennis Hodgetts against Shropshire Council.
 - The application Ref 19/01482/FUL is dated 27 March 2019.
 - The development proposed is erection of a predominantly glazed room with external patio and steps following demolition of conservatory.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development I have used above is taken from the appeal form. This description has changed from that stated on the application form but has been agreed by the appellant and the Council. I have accordingly dealt with the appeal on the basis of this revised description.
3. The application was not determined by the Council within the relevant time period. Following the lodging of the appeal, the Council indicated that, had it been in a position to do so, it would have refused the application for the following reason:
 - The property has already been significantly extended in the past and the proposed additional extension is deemed disproportionate to the original dwelling and therefore inappropriate. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. No very special circumstances have been advanced which outweigh the harm to the openness of the Green Belt.
4. I have taken the Council's above putative reason for refusal into account in reaching my decision.

Main Issues

5. The appeal site is located within the West Midlands Green Belt. Accordingly, from the evidence I have before me, the main issues are:
 - whether the appeal development is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and any relevant development plan policies;

- the effect of the proposal on the openness of the Green Belt;
- the effect of the proposal upon the character and appearance of the host property and surrounding area; and
- if the appeal development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate Development

6. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to state that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions. One of the exceptions cited is the extension of a building provided that it does not result in disproportionate additions over and above the size of the 'original building'. Annex 2 of the Framework defines the term 'original building' as '*a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally*'.
7. Both the appellant's and Council's statement refer to a colour aerial photo of the site. The exact date the aerial photo was taken is not clear, however, both the appellant and Council indicate the photo was taken at some point in the 1970's. The appellant states that the original dwelling had a volume of 615 cubic metres and that the house in its present form has a volume of 1,089 cubic metres. According to the appellant's statement, the existing conservatory to be demolished has a volume of 86 cubic metres and the volume of the proposed garden room is 195 cubic metres. Using the appellant's stated measurements, this represents an increase of 109 cubic metres and would result in a dwelling measuring 1198 cubic metres in volume (not including the existing detached garage).
8. I note that a number of large agricultural buildings have been demolished since the time of the referred aerial photo. These buildings do not appear to form part of the 'original building' and are not, therefore, relevant in the assessment of whether the proposal would represent a disproportionate addition to the original building.
9. On my site visit, I noted that significant extensions to the original building had clearly occurred since the time of the referred aerial photo. Taken together with these existing extensions, the proposal would amount to a disproportionate addition to the original building.
10. For these reasons, the appeal scheme would be inappropriate development in the Green Belt.

Openness and Green Belt Purposes

11. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt.

12. Whilst the proposal is largely shielded from public views by the high roadside boundary wall, given the proposal would increase the footprint and mass of the dwelling, openness would be reduced. This would increase the built-up element of the appeal site. Whilst the reduction in openness would be limited and localised, it would nonetheless result in harm to the Green Belt.

Character and appearance

13. Whilst the proposal would represent a notable extension, its overall design, materials and single storey scale would be subordinate and complementary to the character and appearance of the existing dwelling. I note the Council's view that the existing extension is not of any architectural merit and I have no reason to take an alternative view. As such, the development would have a positive impact on the character and appearance of the appeal dwelling and the surrounding area, in accordance with the design, character and appearance aims of Policy CS6 of the Shropshire Council Local Development Framework: Adopted Core Strategy 2011 (CS) and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan 2015 (SAMDev). These policies require, amongst other things, high quality design that is appropriate in scale, density and design, taking into account the local context and character.

Other considerations

14. The Framework makes it clear that substantial weight is given to any harm to the Green Belt. It establishes that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
15. I acknowledge that the extension would be thermally efficient and that the proposal would make a positive contribution in terms of design quality. I also note that the proposal is largely shielded from public views.
16. The proposal would not result in adverse impacts to the occupants of any residential properties or raise any highway safety issues.
17. However, these other considerations, do not clearly outweigh the identified harm to the Green Belt so as to amount to the very special circumstances necessary to justify the development. As such, the proposal would conflict with CS Policy CS5, SAMDev Policy MD6 and the Framework.

Conclusion

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that appeals be determined in accordance with the provisions of the development plan unless material considerations (including the Framework) indicate otherwise.
19. I have found the proposal to conflict with the development plan, when taken as a whole, and the Framework. As such, for the reasons given above, the appeal is dismissed.

S D Castle

INSPECTOR

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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