

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

Date: Monday, 15 November 2021

**Committee:**  
**Northern Planning Committee**

**Date:** Tuesday, 23 November 2021  
**Time:** 2.00 pm  
**Venue:** Council Chamber, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND

You are requested to attend the above meeting.

There will be some access to the meeting room for members of the press and public but this will be limited for health and safety reasons. If you wish to attend the meeting please e-mail [democracy@shropshire.gov.uk](mailto:democracy@shropshire.gov.uk) to check that a seat will be available for you.

The meeting can be viewed live via Microsoft Teams using the link below. The recording will be made available on you tube, this will be made accessible from the web page for the meeting shortly afterwards.  
<https://shropshire.gov.uk/NorthernPlanningCommittee23November2021>

The Council's procedure for holding Socially Distanced Planning Committees including the arrangements for public speaking can be found by clicking on this link:  
<https://shropshire.gov.uk/planning/applications/planning-committees/>

Tim Collard -Interim Assistant Director – Legal and Democratic Services

**Members of the Committee**

Joyce Barrow  
Garry Burchett  
Geoff Elnor  
Ted Clarke  
Vince Hunt  
Mark Jones (Vice Chairman)  
Mike Isherwood  
Edward Towers  
David Vasmer  
Alex Wagner  
Paul Wynn (Chairman)

**Substitute Members of the Committee**

Julian Dean  
Nat Green  
Nigel Hartin  
Pamela Moseley  
Steve Davenport

Your Committee Officer is:

**Emily Marshall / Shelley Davies** Committee Officer

Tel: 01743 257717 / 01743 257718

Email: [emily.marshall@shropshire.gov.uk](mailto:emily.marshall@shropshire.gov.uk) / [shelley.davies@shropshire.gov.uk](mailto:shelley.davies@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the North Planning Committee held on 26<sup>th</sup> October 2021, attached, marked 2.

Contact: Emily Marshall on 01743 257717

## 3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is Friday, 19<sup>th</sup> November at 2.00 p.m.

## 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 Hawthorn Paddock, Welshampton, Ellesmere, Shropshire, SY12 0NP (21/03044/FUL) (Pages 7 - 30)

Application under Section 73A of the Town and Country Planning Act 1990 for the change of use from pony paddock to single pitch gypsy/traveller site including 1No static caravan, 1No touring caravan, amenity block, works to provide gravel drive, installation of septic tank and associated works (part retrospective)

## 6 Proposed Dwelling North East Of 109 Lyth Hill Road, Bayston Hill, Shrewsbury, Shropshire (21/03387/FUL) (Pages 31 - 44)

Erection of 1No dwelling, formation of vehicular access and installation of treatment plant

## 7 Appeals and Appeal Decisions (Pages 45 - 62)

## 8 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday, 21<sup>st</sup> December 2021.



## Committee and Date

Northern Planning  
Committee

23<sup>rd</sup> November 2021

## **NORTHERN PLANNING COMMITTEE**

**Minutes of the meeting held on 26 October 2021**

**In the Council Chamber, Shirehall, Abbey Foregate, Shrewsbury, SY2  
6ND**

**2.00 - 2.15 pm**

**Responsible Officer:** Emily Marshall / Shelley Davies

Email: emily.marshall@shropshire.gov.uk / shelley.davies@shropshire.gov.uk

Tel: 01743 257717 / 01743 257718

### **Present**

Councillor Paul Wynn (Chairman)

Councillors Joyce Barrow, Geoff Elner, Ted Clarke, Vince Hunt, Mark Jones (Vice Chairman), Mike Isherwood, Edward Towers, David Vasmer, Alex Wagner and Gerald Dakin (Substitute) (substitute for Garry Burchett)

### **56 Apologies for Absence**

Apologies for absence were received from Councillor Garry Burchett (substitute: Councillor Gerald Dakin) and Councillor Alex Wagner.

### **57 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the North Planning Committee held on 28<sup>th</sup> September 2021 be approved as a correct record and signed by the Chairman.

### **58 Public Question Time**

There were no public questions or petitions received.

### **59 Disclosable Pecuniary Interests**

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

**60 Harlescott Junior School , Featherbed Lane, Harlescott, Shrewsbury, SY1 4QN (21/03223/VAR)**

The Principal Planning Officer introduced the application for the variation of Condition 2 (approved plans) attached to planning permission 20/04289/FUL to allow amendments to site design and layout.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Kevin Parry, as local ward councillor, made a statement in objections to the application.

Mr Steve Owen, Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

The Solicitor advised the Committee that a roll call vote would be taken at the request of the Monitoring Officer, but that this did not constitute a recorded vote.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members unanimously expressed their support for the proposals noting that the request made at the previous meeting, to investigate sinking the water tank to make it less intrusive to local residents and the surrounding area, had been thoroughly investigated by officers. In response to a question, the Principal Planning Officer explained why bunding the water tank would not be possible.

**RESOLVED:**

That planning permission be granted for a variation of conditions of permission ref. 20/04289/FUL, subject to the conditions set out in Appendix 1 of the Officer's report, with an additional condition that the plans as set out in condition 2 should be changed as it needs to specify not just the submitted plans but also those that were approved under the FUL approval which are still relevant.

**61 Land West, Lowe Hill Road, Wem, Shropshire (21/02768/OUT)**

The Principal Planning Officer introduced the outline planning application for residential development (Use Class C3) and associated access, public open space, drainage, infrastructure, earthworks and ancillary enabling works. All matters except for access reserved. (Revised scheme) (amended description). The Principal Planning Officer confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters. The Planning Policy

Manager provided an update on the Housing Land Supply confirming that the Council has approximately six years supply of deliverable housing sites and that this site was deliverable and included within the adopted local plan.

Councillor Geoff Soul, on behalf of Wem Town Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Edward Towers, as local ward councillor, made a statement in objection to the application and then left the table, took no part in the debate, and did not vote on this item.

Andrea Caplan, Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Having considered the submitted plans and listened to the comments made by all of the speakers, some Members expressed their support for the proposals however, the majority of Members gave greater weight to upholding the development boundary, noting that 25% of the site fell outside the development boundary identified in the adopted Shropshire Local Plan.

**RESOLVED:**

That outline planning permission be refused on the basis that part of the proposed development was outside the development boundary and therefore contrary to policy CS5 of the adopted Core Strategy; and policies MD2 and MD7a of the adopted SAMDev Plan.

**62 Proposed Dwelling Adjacent 36 Alexandra Avenue, Shrewsbury, Shropshire (21/04014/FUL)**

The Principal Planning Officer introduced the application for the erection of 1 No dwelling and formation of vehicular access. Members' attention was drawn to the information contained within the Schedule of Additional letters.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members unanimously expressed their support for the proposal.

**RESOLVED:**

That planning permission be granted, in accordance with the Officer's recommendation, subject to the conditions as set out in Appendix 1.

**63 Everglades, Brynhafod Lane, Oswestry, Shropshire, SY11 1SH  
(21/02444/FUL)**

The Principal Planning Officer introduced the application for the Change of use of existing residential dwelling/bed and breakfast (C3/B1 Use) to C2 Residential Care home with associated external works to extend parking provision. Members' attention was drawn to the information contained within the Schedule of Additional letters.

Jonathan Martin, on behalf of local residents spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Duncan Kerr, as local ward councillor, made a statement in objection to the application and then left the room, took no part in the debate and did not vote on this item.

Jennifer Hughes, Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

During the ensuing debate it was acknowledged that this type of accommodation for those in need of assisted living, was needed within Shropshire. However, there were concerns around the suitability of the access to the property. The Developing Highways Manager advised the Committee that whilst the access lane was narrow, their recommendation was that the access was acceptable and that it did not breach threshold of severe, as set in planning policy. The Committee also took into account and the concerns expressed by local residents.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members expressed their support for the proposals.

**RESOLVED:**

That planning permission be granted, in accordance with the Officer's recommendation, subject to the conditions as set out in Appendix 1.

**64 Riverside Medical Practice, Roushill, Shrewsbury, SY1 1PQ  
(21/03951/FUL)**

The Principal Planning Officer introduced the application for general site clearance, removal of asbestos containing materials and demolition works to slab level at the Riverside Development Area

Having considered the submitted plans and listened to the comments made by all of the speakers, Members expressed their support for the proposal.

**RESOLVED:**

That planning permission be granted, in accordance with the Officer’s recommendation, subject to the conditions as set out in Appendix 1.

**65 Appeals and Appeal Decisions**

**RESOLVED:**

That the appeals and appeal decisions for the northern area be noted.

**66 Date of the Next Meeting**

It was noted that the next meeting of the North Planning Committee would be held at 2.00 p.m. on Tuesday 23<sup>rd</sup> November 2021.

Signed ..... (Chairman)

Date: .....

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Committee and Date  
 Northern Planning Committee  
 23<sup>rd</sup> November 2021

Item  
**5**  
 Public

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 21/03044/FUL	<b>Parish:</b>	Welshampton And Lyneal
<b>Proposal:</b> Application under Section 73A of the Town and Country Planning Act 1990 for the change of use from pony paddock to single pitch gypsy/traveller site including 1No static caravan, 1No touring caravan, amenity block, works to provide gravel drive, installation of septic tank and associated works (part retrospective)		
<b>Site Address:</b> Hawthorn Paddock Welshampton Ellesmere Shropshire SY12 0NP		
<b>Applicant:</b> Mr J Doran		
<b>Case Officer:</b> Shannon Franklin	<b>email</b>	: shannon.franklin@shropshire.gov.uk



**Recommendation:- Grant a 2 year Temporary Planning Permission subject to the conditions as set out in Appendix 1.**

**1.0 THE PROPOSAL**

1.1 The application seeks retrospective planning permission under Section 73A of the Town and Country Planning Act 1990 for the change of use from pony paddock to single pitch gypsy/traveller site including 1No static caravan, 1No touring caravan, amenity block, works to provide gravel drive, installation of septic tank and associated works.

1.2 *Previously, an application at the site, referenced 20/01361/FUL was refused for the following reasons:*

1. *The site constitutes isolated development in the open countryside and is classed as a rural exception site and as no evidence has been provided to demonstrate that the applicant and/or his family have a strong local connection to the area.  
The application is contrary to the NPPF and the PTTS and local plan policy CS5 and CS12 and the housing SPD and there are no other material considerations that would outweigh conflict with these policies.*
2. *The proposed development will have a significant detrimental landscape and visual impact on the surrounding countryside with consideration to the relative isolation of the site in relationship to any other built development, and hence the proposal represents sporadic development which outweighs the need for an additional single family pitch. The proposal is therefore considered contrary to Core Strategy Policies CS6 and CS17, SAMDev Policies MD2 and M13 and paragraphs 131, 132 and 133 of the NPPF.*
3. *Whilst an ecological assessment in the form of a Phase 1 Habitat Assessment has been submitted, the siting of the proposal in such close proximity to a pond suitable for Great Crested Newts, in an area where Great Crested Newt populations have been identified is not acceptable. It will not be acceptable to develop in such close proximity to the pond and to protect common amphibian species, protected species (and other fauna associated with the pond. It has therefore not been adequately demonstrated that the proposal will 'promote the preservation, restoration and enhancement of priority habitats and ecological networks' as required by paragraph 174 of the National Planning Policy Framework and that the development would not negatively impact on wildlife and protected species and their habitat, and would not cause an offence under the Conservation of Habitats and Species Regulations (2010). The proposal is therefore contrary to policy CS6, CS17 and the NPPF.*
4. *The information contained within the submitted application does not adequately describe the designated heritage assets (Listed Buildings) in the locality and does not adequately assess the impact of the proposal on these assets in the current context and is therefore contrary to paragraph*

*189 of the NPPF. The proposal therefore has the potential to result in harm to these identified assets and fails to accord with MD13 of the SAMDev.*

- 1.2 An enforcement case at the site, referenced 20/07120/ENF, is currently being held in abeyance following the outcome of this current planning application.
- 1.3 The information submitted indicates that the proposed family gypsy pitch will only be used for residential purposes and no business use on site is intended, the applicant will continue to use the rest of the land within their ownership for the grazing of horses.
- 1.4 The single gypsy pitch will consist of 1No. static caravan for permanent residential accommodation, 1.No touring caravan to enable to the family to travel for work and an amenity block for cooking/washing which cannot necessarily be safely done within the Caravan. The amenity block provided will measure 6.0m x 6.0m with an eaves height of 2.4m and a ridge height of 4.0m.

## **2.0 SITE LOCATION**

- 2.1 The site is located in open countryside approximately 400 m north of Welshampton and 3.3km east of Ellesmere. The site lies outside the boundaries of any settlement. The nearest residential neighbours Hampton House Farm 80m to the west and Hawthorn House 150m to the east.
- 2.2 The site comprises of a large paddock with an access gate, access track and hardstanding. As the application is retrospective a touring caravan and single unit mobile home is already on site. The site is bounded by field hedging on it wider boundaries with the hardstanding complex containing the single pitch bounded in part by hedging and in part by timber fencing.

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

- 3.1 The application has been referred to the committee for determination as the Planning Officer is recommending for a two year temporary planning permission, contrary to the opinion of the Local Member and the Parish Council who both object to the scheme and have provided material reasons for this objection.

As such, in accordance with the Constitution and the scheme of delegation the application has been considered by the Chair and Vice Chair, together with the Principal Planning Officer at the relevant agenda setting meeting where it has been confirmed that a committee decision is appropriate.

## **4.0 COMMUNITY REPRESENTATIONS**

### **4.1 - Consultee Comments**

#### **4.1.1 Welshampton Parish Council – 29.07.2021**

**Background:** This is not the first application to be considered for this site. Work on the site commenced prior to the submission of the first application and continued during the determination process. The first application was objected to by the Parish Council primarily due to the adverse impact to the context and

character of the immediate vicinity and the natural environment. Subsequently Shropshire Council refused the application however the site was not returned to its previous condition despite this refusal.

The second application and first to be submitted by this applicant, identified several items of works to justify the suitability of the site. The works were erroneously described as 'existing'. This is to imply acceptable previous development as opposed to the true description of alien and unauthorised features within the open countryside.

This is the third application (second application by this applicant) and has been submitted to overcome the reasons for Shropshire Council's refusal dated 4 September 2020.

### **General observations**

**Change of description of site:** originally described as 'Land West of Hawthorn House, Welshampton' then 'Development Land to the North of Welshampton' and now 'Pony Paddock'. These changing descriptions may appear to be an extremely misleading attempt to imply it is a site suitable for development.

**Description of proposal:** 'Change of use from a pony paddock' again is incorrect; the site is agricultural land used historically for accommodation/grazing.

**Unauthorised development:** In blatant disregard to the planning process the applicant, since submission of his first application, has continued to carry out unauthorised work on this agricultural site.

**Design and Access Statement:** The Statement (page 1) outlines that the initial Design and Access Statement and Supplementary Planning Statement dated 8 June 2020 submitted for application 20/01361/FUL all form part of this application. The Parish Council would highlight the comment made in its response to that application: Incorrect statements regarding the existence of mains water and metered electricity services, neither exist.

### **The Parish Council responses to application 20/01361/FUL.**

Noting the statement made within the Design and Access Statement that previous documents relating to the first application form part of this application, the Parish Council submits its responses to that application.

### **Purpose of application**

The Design and Access Statement explains the purpose of this application is to rebut the reasons for refusal of application 20/01361/FUL. The Council acknowledges it does not have the specialist expertise to assess the technical aspects of the proposed development. However, it would reiterate the comments made in response to the first application in respect of

- Policy and principle of development
- Sustainable location
- Impact on character and appearance of area

- Residential amenity

### **Connection of applicant to the local area.**

The Design and Access Statement confirms the application is not being submitted as an Exception Site as defined within the Section 6 of the Type and Affordability of Housing SPD. There are comments stating the family now have strong local connections and explaining how (pages 4 and 5). The Parish Council strongly questions the quote included on page 6 attributed to the applicant *“Following the purchase of the land and moving to the site almost two years has past.”* The Design and Access Statement for the first application confirms the applicant moved onto the site due to COVID-19 Lockdown which was in March 2020. This is only 15 months from the date of this application. The Design and Access Statement for the first application also confirmed that the site was currently registered with a close relative and was in the process of being transferred into his ownership. As the application form submitted with this application

has section 25 completed, it appears the transfer still has not been completed and registered.

The Parish Council respectfully highlight that if the application is not being submitted as an Exception Site, all comments regarding local connection are irrelevant and **not** material considerations for this application. Personal circumstances are also **not** material considerations.

The Parish Council strongly requests Shropshire Council

- refuse this planning application as per the reasons outlined for application 20/01361/FUL and above, and
- commence enforcement action immediately to deal with the unauthorised occupation and unauthorised works including those dating back to 2016 and to restore the site to its original pre- 2016 state.

The Parish Council reserves the right to add and/or amend its response following receipt of further information.

**Full copies of the Parish Councils comments and appendices are available online.**

#### **4.1.2 SC SUDS – 12.07.2021 – No Objection**

Informatives recommended.

#### **4.1.3 SC Conservation – 10.08.2021 – No objection**

Background to Recommendation: To the south west to the application site and in close proximity is Hampton House Farmhouse, a Grade II listed building with a range of curtilage listed farm buildings to its rear.

To the north east of the site is Hawthorn House which, along with an "L" range of farm buildings indicated on the 1900 mapping and appear to have retained much of its historic interest. We would therefore consider it to be a non-designated heritage asset (HA) as defined in Annex 2 of the NPPF.

In considering the proposal due regard to the following local policies and guidance has been taken, when applicable: CS6 Sustainable Design and

Development and CS17 Environmental Networks, MD2 Sustainable Design, MD13 Historic Environment and with national policies and guidance, National Planning Policy Framework (NPPF) published July 2021 and Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990.

CS5 advises that development of small scale farm diversification on appropriate sites may be acceptable, however, development which either individually or cumulatively erode the character of the countryside, will not be acceptable.

CS6 and CS17 require development to protect, restore conserve and enhance the natural and built historic environment. Its' scale, density, pattern and design taking into account the local context and character, taking into consideration landscape character assessments.

MD13 states that Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored by ensuring proposals avoid harm or loss to significance of designated and non-designated heritage assets and ensuring that proposals affecting the significance of these assets are accompanied by a Heritage Assessment. It goes on to state that proposals which are likely to have an adverse effect on the significance of non-designated heritage assets, including their setting, will only be permitted where it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse impact.

Section 16 of the National Planning Policy Framework refers to Conserving and Enhancing the Historic Environment. Paragraph 194 refers to Local Planning Authorities requiring applicants to describe the significance of heritage assets and their setting. Paragraph 197 refers to the need for Local Authorities to consider the desirability for new development to make a positive contribution to local character and distinctiveness.

Paragraphs 199-200 and 202 advises that when considering the impact of a proposed development on the significance of the designated heritage assets, great weight should be given to the asset's conservation and that any harm to or loss of, the significance of the designated heritage asset (from its alteration or from development within its setting) should require clear and convincing justification. Less than substantial harm to the significance of the designated heritage asset will be weighed against public benefits of the development, bearing in mind the great weight required by paragraph 199.

Paragraph 203 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and in weighing applications that affect (directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset.

Recommendation: A Heritage Assessment has been submitted with this application and is broadly sufficient in reference to the requirements of para 194 of the NPPF and MD13 in terms of the proposed development and concludes that the development will "... have little negative impact on either building." This is relation to Hampton House Farm (designated heritage asset and Hawthorne House non-designated heritage asset). We would not necessarily disagree with

this statement, however, we so query the layout of the site in terms the location of the structures. We consider the proposed structures could be better sited so as to reduce the visual appearance. This should be given further consideration and in conjunction with some reinforced planting of the external boundary.

Whilst we do not object to the application from a heritage perspective, we do consider that the proposal could be better integrated into the overall site by sensitive orientation and location of the proposed structures. We also consider that the colour of the proposed structures should be recessive in the landscape and therefore materials should be agreed by condition and the colour reflect the verdant area.

We also note that there are other structures on the site which do not appear to be included within the proposal? We would advise that too many structures/intensification of use/structures on the site could cause harm due to cumulative impact and could erode the character of the countryside.

We do not consider that minor use of this site as indicated (notwithstanding the structures which are not included on the application) would cause harm to the significance of the designated heritage asset and therefore would not engage Section 66 (1) of the PLB&CA Act 1990, in this instance. However, we would suggest that permitted development rights should be restricted to ensure that no additional structures or alterations are allowed.

In considering this application special regard to the desirability of preserving the buildings and their settings, together with its features of special architectural and historic interest which it possesses, has been made in line with Section 66 (1) of the above act.

#### 4.1.4 **SC Highways – 04.08.2021 – Conditional Acceptance.**

The supporting documentation advocates that the current application is a resubmission of the earlier proposal refused under reference 20/01361/FUL. Further to the receipt of additional clarification in terms of the access route construction and for a single occupancy pitch a conditional approval from the highway aspect was submitted. On the basis that the current application is a resubmission of the earlier proposal, it is considered that, subject to the condition listed above being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

#### 4.1.5 **SC Ecology- 16.07.2021 - No objection**

SC Ecology have confirmed that standing advice is applicable in relation to this application. As such subject to the imposition of appropriate conditions, the application and the submitted ecology report is considered to be acceptable.

#### **Comments made on previously refused application – 01.07.2020**

*'It will not be acceptable to develop in such close proximity to the pond.' In order to protect common amphibian species (and other fauna associated with the pond), please move the building so that a buffer of at least 10m from the pond can be maintained.'*

Note: These comments were made on the basis of the same Ecological Report accompanying the current application and the amenity building has now been re-sited and the 10m buffer included.

#### 4.1.6 **SC Gypsy Liaison – 02.09.2021 – Neutral**

The Liaison Service can confirm there are vacant pitches on 2 out of the 4 sites Shropshire Council manage.

The agent claims the council advised Travellers there is no funding to bring back the two vacant pitches on the Park Hall site, I would like to state that the Liaison service has funding available prior to the allocation of both units. The units are currently boarded up as they were vandalised when the previous occupants vacated the site. There was no communication made by the agent with the Liaison Service to substantiate the claims regarding the lack of funding available.

## 4.2 - Public Comments

4.2.1 This application was advertised via notice at the site and the Councils website. Additionally, the residents of 56 neighbouring properties were notified by way of publication of this application. At the time of writing this report, 72 representations had been received in response to this publicity.

4.2.2 The reasons for objection of the application cited in these representations are summarised below:

- The site is outside of the village on greenbelt land;
- The open spaces around the village should be kept clear of development;
- The design is not in keeping with the surrounding;
- The highways access is narrow and not appropriate for large vehicles such a caravans;
- The application will enable future development of additional caravans on the site;
- There are other sites available for the travelling community;
- There have been previous refusals at the site and this application doe not address those reasons;
- The application damages existing wildlife and ecology;
- The application site is near a Listed Building;
- The application site is visible from the surrounding area;
- The application should be returned to its previous agricultural use;
- The application will generate additional unacceptable traffic;
- The application will generate noise and disturbance to other residents;
- The site has been developed without planning permission in contrary to thr planning regulations and therefore planning permission should not be granted;
- The personal circumstances of the family are not a reason for approving the permission;
- There will be a risk of pollution to the nearby ponds;
- The ecology assessment and the heritage assessment submitted are out of date and contain insufficient information;
- The family do not require an amenity block so why is this included within and application;
- The proposal is for 2no. caravans; a static caravan and a touring caravan



which suggests two families will live on site;

- The applicant is not paying council tax for the existing living accommodation he has been living in for 2 years;
- Additional buildings installed on the site already; not shown on the proposed plans;
- The proposal will be out of character with the surroundings;

4.2.3 In addition, the Local member has made comments on the application which are provided below for clarity;

*Having opposed a previous application on this site which was refused I am just as opposed to this application since it proposes a development in the "Open Countryside". and to allow it would create a precedent across Shropshire for future applications. There is no change to the basic criteria in that this is development in the open countryside which is contrary to Shropshire's Development Plan. In the application there is considerable stress laid upon the personal circumstances of the applicant but "personal circumstances" are not recognised in the planning process and have not, to my knowledge, been allowed to sway other applications. Planning and its detailed Development Control are about land use and this application should be considered solely on its merits, or lack of them, in land use terms. Despite the view of the applicant's agent, this site is in fact in a prominent elevated position and is certainly not contiguous with the built-up area or the development boundary of Welshampton.*

*It is suggested that Shropshire's GTAA 2017 is not up-to-date but no reason for this statement is given and my understanding is that it is still in full force. It is also suggested that the Site Allocations Development Plan is incomplete. This is incorrect as it is still in force while it is being revised and the application site has never been submitted for consideration for inclusion when the revised SAM Dev becomes part of the future approved Core Strategy. On page 14 of the applicant's Design and Access Statement it is conceded that the proposal constitutes inappropriate development for the purposes of the Development Plan but then seeks to over-ride this by pleading what are headed "Very Special Circumstances". It is a matter of opinion whether the circumstances outlined are special in any relevant way.*

*There is much else that the applicant's agent seeks to use to shore up the application such as two pages of "The Need and Status of the Applicants". As the County Councillor for Welshampton it is my view that the application should be considered, as are all other applications, on whether or not the land use complies with the existing Shropshire Development Plan which is in force until 2026 or until superseded. To allow the application for any other reason would be to create a precedent which could be used to try to justify similar applications in adjacent, or other locations, in the county.*

## 5.0 THE MAIN ISSUES

- 5.1
  - Policy and principle of development
  - Gypsy and traveller status
  - Impact on character and appearance
  - Heritage impact
  - Ecological impact
  - Other matters
  - Planning balance

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).
- 6.1.2 CS5 strictly controls development in accordance with national policies protecting the countryside. The policy lists housing exceptions that may be permitted on appropriate sites in countryside locations, to include those that meet a local need in accordance with national policies and policy CS12. Policy CS12 (Gypsy and Traveller Provision) recognises the need to meet the housing needs of the gypsy and traveller population and sets out how this will be achieved. Reference is made to supporting suitable development proposals for sites close to market towns and key centres and ensuring all sites are reasonably accessible to services and facilities. Reference is also made for the need to demonstrate a strong local connection for small exception sites (under 5 pitches).
- 6.1.3 The SPD Type and Affordability of Housing (2012) goes on to advise that the need for Gypsy and Traveller sites in Shropshire is identified in the Gypsy and Traveller Accommodation Assessment and that, in assessing a planning application, the Council will consider whether the applicant is a bona fide Gypsy or Traveller and the availability of alternative suitable sites.
- 6.1.4 Gypsy and Traveller Accommodation Assessment identifies the needs of Gypsies and Travellers from across the County, the aim of which is to provide a robust evidence base to plan for future provision and to inform the consideration of planning applications.
- 6.1.5 National policy relation to planning provision for gypsy and traveller development is set out in Planning Policy for Traveller Sites (PPTS) August 2015 which is intended to be read in conjunction with the NPPF.
- 6.1.6 The PPTS also aims to promote more private traveller site provision and to increase the number of traveller sites in appropriate locations to address under provision. This must be balanced against the need to protect local amenity and

the environment and the objective of contributing to the achievement of sustainable development consistent with the NPPF.

- 6.1.7 The PPTS specifically states that local planning authorities should consider applications from all travellers (not just those with local connections) and that adopted local policy and existing local provision should be taken into account. Following the refusal of the previous application at the site, an updated position of the applicants personal circumstances have been provided to Officers. Whilst the applicant cannot demonstrate a strong local connection in relation to existing family and connections within Welshampton, they do have family connections in Wrexham, Wolverhampton and Shropshire. That being said 2no. children now attend the local school and the youngest child at the site continues to attend regular medical appointments with both the local health trust and specialist appointments within the wider West Midlands area. Officers do not consider that a strong local connection has been demonstrated, although it recognises the PPTS specifically states that local planning authorities should consider applications from all travellers, the applicants have now established a local connection. The Council do not dispute the applicants gypsy status (discussed further below) but the connections demonstrated are not sufficient to meet the local connections requirement of policy CS12 and a conflict with this policy is therefore established.
- 6.1.8 The reasons cited for originally moving to the site (prior to the refusal of the first planning permission 20/01316/FUL), prior to obtaining planning permission, was the outbreak of the Coronavirus and concerns for the applicant's families health when staying on pitches with family and friends whilst travelling to find work. The applicant has also explained that this is the reason they have continued to live on the pitch without the appropriate planning permission in place in the intervening time. The applicant maintains that there are no alternative sites which would meet his and his family's needs available.
- 6.1.9 Core Strategy Policy CS12 states that an application to meet the accommodation needs of the gypsy and traveller community will be supported if it is a suitable proposal located close to Shrewsbury, the Market Towns, key centres and community hubs and clusters. Such a site may be in countryside. However, the PPTS (paragraph 25) sets out a requirement that 'Local Planning Authorities *should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan*'.
- 6.1.10 There is however no specific requirement in the PPTS that gypsy sites should be close to facilities. Although, paragraph 13 does require that policies ensure that sites are economically, socially and environmentally sustainable, avoid undue pressure on local infrastructure and ensure that access to health services and attendance at school is facilitated. It is a local policy requirement (bullet point 5, CS12) that sites are '*reasonably accessible to services and facilities and suitably accessed, designed and screened*'.
- 6.1.11 The application site is situated in open countryside, as defined by Policy CS5,

and outside any recognised settlement. The nearest settlement; the village of Welshampton approximately 400m to the south, has a defined development boundary. The application site is neither within nor adjacent to the boundary and is clearly divorced from Welshampton and the existing development lying within the village. Welshampton is recognised as a Community Cluster within S8.2 (vi) of the SAMDev where development by infilling, small groups of up to 5 houses and conversions may be acceptable on suitable sites within the development boundaries identified on the Policies Map.

- 6.1.12 The site is clearly separate from Welshampton in spatial terms, not adjoining any development or the boundary of the settlement identified in policies. As such it constitutes sporadic development. Whilst there are other examples of development within the countryside surrounding the site detached dwellings, agricultural buildings etc. it is still considered that the application site constitutes isolated development in the open countryside. Resultantly the application site, which is situated in open countryside on a site divorced from nearby settlements and existing development, is considered to represent isolated development, thereby resulting in a conflict with both Policy CS5, together with CS12 and the SPD.

## **6.2 Gypsy and Traveller Status**

- 6.2.1 Information with regards to the gypsy status of the applicant, in accordance with the definition provided within annex 1 of Planning Policy for Traveller Sites, has been provided within the submitted Design and Access Statement, as well as within emails to the Planning Officer. The Gypsy Liaison Officer confirmed as part of the previous application that the information pertaining to the applicants status is accurate and that they would meet the defined criteria, given the applicants circumstances in relation to their working practices has not altered, it is considered they still continue to meet the definition.

- 6.2.2 Should the application be approved it would be appropriate to impose a condition restricting the sites occupation no persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites.

- 6.2.3 Officers recognise that the applicants have provided additional information pertaining to the medical needs of the family on site within confidential emails to the Planning Officer. Having considered the information provided and the connections the family have established within the local schools and health service, whilst Officer do not consider '*very special circumstances*', which outweigh the harm by reason of inappropriateness, have been established, weight is given to the circumstances put forward in conducting the planning balance.

## **6.3 Impact on the character and appearance of the area**

- 6.3.1 The application site is situated in open countryside where there are long distance views toward the site from surrounding public viewpoints. The nearest viewpoint is the public right of way to the east which runs along the boundary of the applicant's ownership. This boundary is currently formed of field hedge interspersed with mature trees, however the site will clearly be visible to receptors utilising this footpath

- 6.3.2 Additionally, there are public viewpoints from the surrounding highways network to the east and south east. The site when viewed from the highway and surrounding area appears detached from neighbouring residential development and does not reflect the character of the surrounding area.
- 6.3.3 The proposal will result in the introduction of a single unit static caravan (currently sited to the south of the site but proposed to the east boundary, an amenity block and a single touring caravan. Each of these aspects of the development will have a resultant visual impact, particularly the caravan where it is recognised in policy MD11 '*Static caravans, chalets and log cabins are recognised as having a greater impact on the countryside*' irrespective of their use. The surrounding context of the site is predominantly open arable agricultural land with native species tree and hedge planting forming field boundaries. The nearest development are detached properties with associated outbuilding and agricultural development. The presence of development will lessen the impact of the proposal but by its nature the scheme will on balance have a detrimental visual impact.
- 6.3.4 The public viewpoints around the site would not result in all encompassing view, rather there will be certain vantage points where the static caravan in particular is more prominent and others where limited amount of the development is visible. The nearest public viewpoint (approx. 100m) is a public footpath to the northeast/east of the site along a private access track, from this perspective the land slopes up towards the application site. The hedging bounding the public footpath is mature and established providing a degree of screening. The nearest public viewpoint from the highways network is from Copes lane (approx. 195m) to the east, similarly the hedging forming the highways boundary, together with the boundary to the private access track provides a degree of screening and reduces the sites prominence.
- 6.3.5 Certain aspects of the development could feasibly be designed to reduce their visual impact. For example, the materials of the amenity block can be chosen to reflect the nearby dwellings thereby according with the existing character, the boundary treatments can utilise post and rail timber fencing and further native species planting complying with the rural characteristics of this countryside location. However, the key element of the proposal - the static caravan, hardstanding area and touring caravan, parking and associated paraphernalia - whilst they could be mitigated against with suitable landscaping, given the temporary two year period proposed, this would not have sufficient time to mature to become effective. This though is not considered sufficient to outweigh the harm identified considering the applicants personal circumstances. The proposal is therefore considered contrary to Core Strategy Policies CS6 and CS17, SAMDev Policies MD2 and paragraphs 130 of the NPPF. This is considered further in the planning balance section below.

## **6.4 Heritage impact**

- 6.4.1 As discussed within the Conservation Officers comments the proposal is sited in close proximity to Hampton House Farmhouse, a Grade II listed building with a range of curtilage listed farm buildings to its rear.

6.4.2 Policy MD13 of the adopted SAMDev at criterion 2 requires as follows;

*‘that proposals which are likely to affect the significance of a designated or non-designated heritage asset, including its setting, are accompanied by a Heritage Assessment, including a qualitative visual assessment where appropriate.’*

6.4.3 A proportional Heritage Impact Assessment (HIA) has been submitted to accompany the application. The SC Conservation Officer has commented with concerns noted over the proposal and the siting of the structures (static caravan and amenity block) together with the materials to be utilised.

6.4.4 The proposed application site is approximately 75m to the northeast of the Listed Building, and 120m east of the non-designated heritage asset identified. Mature trees and hedging form the sites outer boundaries between the properties such that the development is partially screened from both the identified heritage assets. The upper parts of both buildings are visible from the application site, from the surrounding landscape, at certain vantage points, the application site can be seen in context with the 2no. identified heritage assets.

6.4.5 The NPPF at paragraph 202 acknowledges that *‘Where a development proposal will 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, where appropriate, securing its optimum viable use’*. In this instance, both the HIA submitted by the applicant and the SC Conservation Officer conclude that less than substantial harm will arise to the identified heritage asset, a Listed Building, where the public benefit is the provision of a single gypsy pitch to meet the identified need of the applicant and his family, where the personal circumstances provided constitute a material consideration in favour of approval.

6.4.6 Overall, following submission of the HIA, the SC Conservation consultee has confirmed that the impact upon the setting of the nearby Listed Building would be less than substantial. It is considered that the requirements of Section 66 (1) of the PLB&CA Act 1990, in this instance have been met. As such the previous refusal reason (no.4) relating to this issue has on balance been satisfactorily addressed. The other concerns identified by the Conservation Officer can be addressed by the imposition of suitable conditions (landscaping retention materials, proposed plans etc.). It is considered that there are material considerations that weight in favour of supporting the application.

## **6.5 Ecological impact**

6.5.1 Shropshire Core Strategy Policy CS17: Environmental Networks is concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire’s natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreational values and function of these assets.

6.5.2 The SC Ecology consultee commented on the previously refused application 20/01361/FUL that subject to re-siting of the amenity block and imposition of a 10m buffer zone, free of built development, the scheme would be acceptable

from an ecology perspective. This alteration has now been made as part of the current application with both the amenity block and static caravan sited outside the 10m buffer zone requested. Accompanying this previous application was an identical ecology report to that submitted with the current application.

- 6.5.3 Therefore, the proposal, as submitted, is compliant with CS17 or MD12 (Natural Environment) subject to the imposition of appropriate conditions pertaining to landscaping. The landscaping enhancement would also result in potentially some ecological benefit. As such the reason for refusal (No.3) previously imposed is no longer applicable.

## **6.6 Other matters**

- 6.6.1 The highways access in terms of safety and visibility, together with the parking and turning layout within the pitch boundary are acceptable subject to the imposition of conditions. In addition, the use of septic tank (which although existing is unlawful and would not constitute permitted development in connection with the use of the land for agriculture) is acceptable in principle.

- 6.6.2 Officers recognise that local residents have raised a number of further concerns with regards to the impact of the proposal on residential amenity. Given the isolated siting of the development away from the village of Welshampton, it is not considered that the proposal will have an impact on residents here. With regards to the nearest neighbouring dwellings, sufficient distance is maintained that subject to the imposition of conditions on lighting and no business use of the site it is unlikely any significant impact would arise.

- 6.6.3 A further point raised within the comments made by local residents relates to the need for a static caravan and a touring caravan and an amenity block. For a single gypsy pitch such as this the static caravan forms the main living accommodation whilst the amenity block provides facilities for cooking and washing which minimises the risks (fire and safety) associated with undertaking these activities. The touring caravan is required in order to enable the family or some members of the family to travel to find work as well as to travel for the purposes of fairs and shows which is a recognised part of gypsy and traveller culture. Without the provision of a touring caravan, travelling to find work would be significantly limited and therefore the applicant could not meet the definition of a gypsy and traveller for planning purposes. The provision of a touring caravan and static caravan does not enable 2no. families to occupy the site and conditions would control this.

## **6.7 Planning Balance**

- 6.7.1 The Design and Access Statement accompanying the application maintains that the previous reasons for refusal have been addressed as part of the submission and therefore full planning permission on a permanent basis should be granted. It is the applicants' position that the materials considerations in favour of approval, including the applicants personal circumstances, taken cumulative constitute sufficient weight in favour of approving the application. For clarity, the Council has addressed each of the point previously raised (as part of application 20/01361/FUL) which have been expanded upon as part of this current application.

6.7.2 The need for further sites for Gypsies and Travellers nationally, regionally, locally and personally.

The Council has an up-to-date provision of Gypsy and Traveller pitches within the authority's area and pitches available for the applicant to apply for. The Gypsy and Traveller Liaison Officer has confirmed that there are 2no. pitches available at the Park Hall site, however following the previous occupants leaving these have been vandalised with works to repair them not yet undertaken, although funding is available should someone apply to occupy one of these pitches.

The unavailability of suitable alternative sites;

The Council has available Gypsy and Traveller pitches within the authority's area, a short distance from the application site which the applicant can apply for given their recognised Gypsy and Traveller status (as above).

The family's personal circumstances (including their status as Gypsies and Travellers) in particular their health and schooling;

Officers note the applicants personal circumstances but do not consider that they constitute sufficient weight in favour of the application to overcome the harms identified. The needs for access to medical and schooling facilities could feasibly be obtained from the available Council owned pitches or another site within the locality which does not conflict with the development plan to such an extent.

Deficiencies with Development Plan policy provision for Gypsy and Traveller caravan sites in Shropshire;

The Council consider they have sufficient pitch provision within the authority area, as demonstrated within the Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2019 Update (Published February 2020).

Human Rights consideration;

The applicant's Human Rights have been considered in determining this application.

The call by the LPA for additional sites 2018/2019 in accordance with the Local Plan

Reviews;

The Council are currently undertaking a Local Plan Review with the plan submitted to the Secretary of State for examination in early September 2021. It is therefore anticipated that the plan will be ready for adoption in late 2023 therefore providing an up-to-date policy position. An Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2019 Update (Published February 2020) has been conducted as part of the Local Plan review which confirms at paragraph 8.6 the following:

*It is recommended that the review of the Local Plan acknowledges the overall need (excluding turnover) for 113 additional pitches based on a cultural interpretation of need and 43 based on a PPTS interpretation of need. For the purposes of the review of the Local Plan it should however*



*be concluded that turnover on local authority pitches is expected to address this need, and that there is no current requirement for site allocations or the identification of sites for longer term provision.*

The lack of any existing need for pitches within Shropshire is evidence by the 2no. vacant pitches at the Council owned Park Hall site which are available for application. The Council therefore do not consider that the Local Plan Review, including the call for sites process constitute a material consideration in favour of the application. On the contrary the most up-to-date evidence demonstrates that need within the authority area is being met and therefore supports refusal of this application which is contrary to policy.

6.7.3 As discussed above the refusal reasons pertaining to heritage and ecology have been addressed as part of the submission for the application and as such conflict with policy CS17, MD13 and CS6 in these regards is reduced, where suitable condition can be imposed upon a decision to control the development and sufficiently limited the remaining harms arising from conflict with these policies.

6.7.4 However, the Council maintain that the proposal constitutes isolated development in the open countryside resulting in a conflict with CS5 of the Core Strategy which has been attributed significant weight. Similarly, although some connections within the community have now been made through unlawfully occupying the application site, it has not been demonstrated that the applicants have a sufficiently strong local connection resulting in conflict with CS12 which is attributed some weight. Finally, the unacceptable visual impact caused by the development which cannot be mitigated against, thereby resulting in conflict with CS6 and MD2, is attributed some weight.

6.7.5 On this basis Officers do not consider that the material considerations put forward are sufficient to address the harms identified and permanent planning permission cannot be recommended for approval.

6.7.6 Officers are required to consider whether the imposition of conditions would make a development otherwise acceptable. The Planning Practice guidance at paragraph Paragraph: 001 Reference ID: 21a-001-20140306 states:

*'When used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects.'*

6.7.8 In this instance Officers consider that the imposition of a condition limiting the lifetime of the permission to a **two year temporary permission** from the date the permission is granted, is appropriate and would address the concerns identified, whilst acknowledging the weight attributed to the personal circumstances of the occupants and enabling the 2no. pitches at Park Hall to be repaired with the available funding. In addition, the granting of a temporary planning permission will enable the Local Plan Review to be undertaken and adopted, creating a more up-to-date policy context for considering the development. When the permission expires, further conditions will require the land to be returned to its original condition.

- 6.7.9 The imposition of a temporary condition would sufficiently limit the landscape visual harm to a 2no. year period, and limit the lifetime of the development such that the period of conflict with CS5 is limited. The personal circumstances of the applicant do constitute significant weight in favour of the application and whilst not the ‘very special circumstances’ need to warrant approval of a permanent planning permission contrary to adopted policy, they are sufficient to warrant the approval of a two year temporary planning permission.
- 6.7.10 Further condition limiting the permission to the applicant and his family only, limiting the number of caravans on site to 1no. static caravan and 1 no. touring caravan, together with the imposition of landscaping, preventing the site being used for business purposes and securing ecological enhancements are also considered to be appropriate, compliant with the tests set down in the PPG and address the outstanding harms of a temporary planning permission at the site.

## 7.0 CONCLUSION

- 7.1 The application is recommended for approval subject to the imposition of a condition limiting the condition to a **two year temporary period** from the date of approval. The imposition of this condition, together with those additional appropriate conditions discussed above, will suitably limit the harm incurred on account of the sites isolated position conflicting with CS5 where the applicant has not demonstrated a strong local connection conflicting with CS12, and its landscaped visual impact conflicting with CS6 and MD12. The residual harm and historic impacts (considered less than substantial), is outweighed by the weight in favour of approval attributed to the material considerations in favour of the application; which are the applicant's personal circumstances and whilst there is a plot nearby, it is not immediately available owing to the need for extensive refurbishment.

## 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:

NPPF

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt

CS12 - Gypsies and Traveller Provision  
 National Planning Policy Framework  
 SPD Type and Affordability of Housing  
 CS17 - Environmental Networks  
 CS6 - Sustainable Design and Development Principles  
 MD2 - Sustainable Design  
 MD11 - Tourism Facilities and Visitor Accommodation  
 MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

20/01361/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the change of use from pony paddock to single pitch gypsy/traveller site including 1No static caravan, 1No touring caravan, amenity block, works to provide gravel drive, installation of septic tank and associated works REFUSE 4th September 2020

21/03044/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the change of use from pony paddock to single pitch gypsy/traveller site including 1No static caravan, 1No touring caravan, amenity block, works to provide gravel drive, installation of septic tank and associated works (part retrospective) PDE

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)
Cabinet Member (Portfolio Holder) Councillor Ed Potter
Local Member  Cllr Brian Williams
Appendices APPENDIX 1 - Conditions

**APPENDIX 1****Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be for a limited period being the period of 2 years from the date of this permission. At the end of this period the site shall be returned to its former condition.  
Reason: The permission is granted owing to the personal circumstances of the applicant.
2. The development shall be carried out strictly in accordance with the approved plans and drawings  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. Within three months of the granting of this permission details of the materials to be utilised in the construction of the external walls and roof of the utility and external colour of the mobile units shall be submitted to the Local Planning Authority for approval. The development shall be carried out in accordance with the approved details.

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

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

4. The development hereby permitted shall not be brought into use until the areas shown on the Proposed Block Plan Drawing no. 71233R:1001 for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

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

5. The site shall only be occupied by Mr James Doran and Mrs Barbara Doran and their resident dependants.

Reason: To ensure that the site is only occupied by the Applicant/s and their named dependants

6. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of the Planning Policy for Traveller Sites Department for Communities and Local Government March 2015.

Reason: This permission is only granted in view of the exceptional circumstances of the gypsy community within the Local Planning Authority's area at the date of the permission hereby granted.

7. The development hereby permitted is limited to a single pitch. No more than one static caravans and one touring caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Act 1968, shall be stationed on the site at any time and no caravans shall be stationed other than in accordance with the approved layout. Any caravans positioned on the site shall also be capable of being lawfully moved on the public highway.

Reason: To safeguard the amenities of the locality.

8. All existing trees and hedgerows within and bordering the site shall be protected, retained and maintained to the satisfaction of the local planning authority for the duration of any development works and the permitted occupation of the site thereafter.

Reasons: To safeguard the visual amenities of the area.

9. Notwithstanding the details shown on the approved plans the access gates provided shall be set a minimum distance of 10 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

10. When the land ceases to be occupied by the persons named in condition 6 above, or the temporary period of permission defined by condition 1 above expires (2 years), the use hereby permitted shall cease and all mobile homes, static and touring caravans, portable structures, materials, fencing, drainage and equipment stored on the land shall be removed from the land within one month of the cessation date.

Reason: Planning permission has only been given for a limited period of time (2 years) because of the personal circumstances of the occupiers and their identified needs and in order

to restore the openness and visual amenity of the countryside.

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Committee and Date  
 Northern Planning Committee  
 23<sup>rd</sup> November 2021

Item  
**6**  
 Public

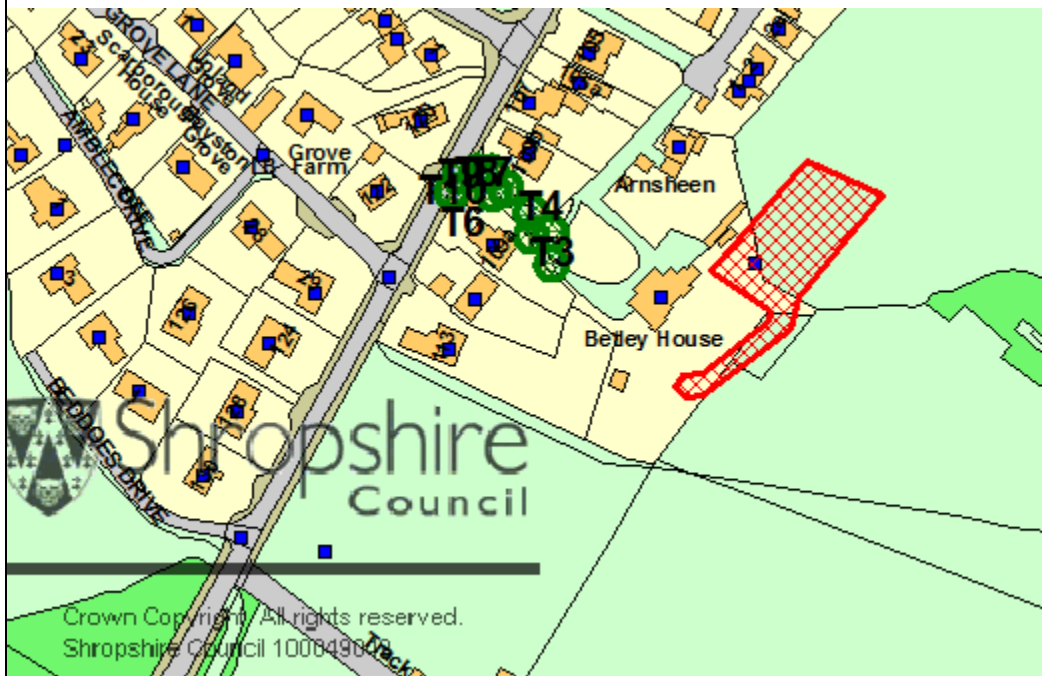
## Development Management Report

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

### Summary of Application

<b><u>Application Number:</u></b> 21/03387/FUL	<b><u>Parish:</u></b>	Bayston Hill
<b><u>Proposal:</u></b> Erection of 1No dwelling, formation of vehicular access and installation of treatment plant		
<b><u>Site Address:</u></b> Proposed Dwelling North East Of 109 Lyth Hill Road Bayston Hill Shrewsbury Shropshire		
<b><u>Applicant:</u></b> Mr N Freeman		
<b><u>Case Officer:</u></b> Didi Kizito	<b><u>email</u></b>	: didi.kizito@shropshire.gov.uk

**Grid Ref:** 348268 - 308137



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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 planning permission for the erection of one dwelling, vehicle access and treatment plant.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a parcel of land that currently has permission for a garden serving no 109 Lyth Hill Road.

### 3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

- 3.1 TBC

### 4.0 Community Representations

#### Consultee Comment

#### 4.1 Bayston Hill Parish Council

At a recent Planning Committee meeting of Bayston Hill Parish Council they considered this application. Members resolved to send a consultee response to OBJECT to this planning application based on the contravention of the Bayston Hill Parish Council's Planning Policy where it is sited outside the SAMDev defined boundary and is a garden development. Concern was raised by the Committee when they considered the earlier Change of Use application - 20/02833/COU resulting in correspondence with the planning officer at the time. They raised concern that a development application would follow. Finally, please reference the recent Housing Needs Survey for Bayston Hill Parish as this proposal is not felt to be in line with the overall survey findings.

#### 4.2 SC Affordable Houses

No objection

#### 4.3 SUDS

No objection subject to conditions and informatives

#### 4.4 SC Highways

No objection subject to conditions and informatives

#### Public Comments

A total of 33 representations have been received objecting to the scheme. Concerns have been raised over the following

- Policy/development boundary

- Conservation/ecology
- Overlooking/loss of privacy/loss of light
- Highway/Traffic/Noise
- Design, appearance and materials
- Demand for dwellings
- Loss of views
- Capacity of treatment plant
- Not affordable housing

## 5.0 THE MAIN ISSUES

- Principle of development
- Scale and design of structure
- Residential amenity

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 The scheme proposes the erection of an open market dwelling in Bayston Hill. The main footprint of the new dwelling would be situated part of the garden of 109 Lyth Hill where it is noted this section of garden is within the recognised development boundary of Bayston Hill. However, the proposed external amenity space and facilities that would serve the proposed dwelling, including garden space, rainwater harvesting attenuation system and treatment plant would be located outside the development boundary and therefore considered open countryside. It is noted that these elements of the development would be sited on land that until recently was classified as agricultural land. However a change of use of the land was permitted enabling it to be part of the residential garden of 109 Lyth Hill. The change of use of land resulted to the dwelling achieving approximately 80% increase in the garden area.

6.1.2 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) also advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF is a material consideration that constitutes guidance for local planning authorities as a material consideration to be given weight in determining applications.

6.1.3 A key objective of both national and local planning policies is to concentrate new residential development in 'sustainable' locations which are easily accessible and which offer a range of services and community facilities.

6.1.4 Policy CS1 of the Shropshire Council Core Strategy (CS) 2011 sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 35% of these being within the rural area, provided through a sustainable "rural

rebalance” approach. Development in rural areas will be predominantly in Community Hubs and Community Clusters.

- 6.1.5 Policy CS4 of the CS sets out how new housing will be delivered in the rural areas by focusing it in Community Hubs and Community Clusters, which are identified in Policy MD1 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015. Policy MD1 of the SAMDev identifies those settlements that fall within a Community Hub or Community Cluster. Policy CS11 of the CS seeks to ensure that development creates mixed, balanced and inclusive communities.
- 6.1.6 Core Strategy policy CS5 and also SAMDev policy MD7a strictly controls development in the countryside whilst providing a number of exceptions for new dwellings. One of the exceptions is affordable housing to meet a local need and further advice is provided within CS11 and the Type and Affordability of Housing Supplementary Planning Document SPD. The SPD outlines the Councils ‘Build Your Own’ affordable home scheme that enables ‘qualifying people to build their own affordable home on single plot exception sites’. The application is not however for a self-build affordable home but for an open market self build dwelling.
- 6.1.7 The Council’s Type and Affordability of Housing Supplementary Planning Document (SPD) 2012 recognises that self-build properties can help to achieve mixed and balanced communities. Neither the Core Strategy nor the SAMDev policies explicitly refer to self-build housing. However, the relevant housing supply policies do allow, amongst other things, housing developments within areas that the Council consider to be suitable locations, i.e. settlements identified for growth. There is nothing preventing these single plot developments being for open market, self-build dwellings. Moreover, Policy CS5 of the Core Strategy and Policy MD7a of the SAMDev allow residential development outside of these areas, albeit subject to further restrictions.
- 6.1.8 The Council’s single plot exception scheme, as referred to in Core Strategy Policy CS5 and SAMDev policy MD7a is largely a self-build initiative. The scheme enables households with a local connection and an identified need, to build their own home in an area where planning permission would not normally be supported. Nevertheless, these policies support self-build dwellings, albeit providing they are secured as affordable dwellings in perpetuity.
- 6.1.9 Therefore, the development plan supports the provision for self-build dwellings, providing they are in suitable locations, as identified in Policies CS4 and CS5 of the CS and Policies MD1 and MD7a of the SAMDev.
- 6.1.10 The NPPF seeks to ensure the delivery of a sufficient supply of homes and advises at paragraph 62 that ‘the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies’ and that this should include ‘people wishing to commission or build their own homes’
- 6.1.11 Comments have been received relating to the proposed development scheme being contrary to planning policies.

6.1.12 Within the SAMDev S16.2 (ii) Bayston Hill is a Community Hub with a housing guideline of around 50-60 additional dwellings over the period to 2026, where development by infilling, groups of houses and conversion of buildings may be acceptable on suitable sites within the development boundary identified on the Policies Map. The retention of the gap of undeveloped land between Bayston Hill and Meole Brace, Shrewsbury remains an important objective of the strategy for the village. The development of the village is also constrained by the presence of the A49 running through the village and the major quarry to the east. The provision of affordable housing has been identified by the Parish Council as a priority requirement.

6.1.13 Whilst it is acknowledged Bayston Hill has a published Parish Council Planning Policy (2017) which is a material planning consideration, and which indicates that it opposes properties being built in gardens as it undermines the character of the Village as well as encroaching on Environmental corridors, whilst most of the proposed dwelling's curtilage will be on land outside the recognised development boundary for Bayston Hill, the dwelling itself will not be. Use of the land as residential curtilage has already been established by the change of use.

While the above policy considerations have been noted, reference is also made to a recent appeal decision APP/L3245/W/20/3265872 where although dismissed, at paragraphs 18-20 relating to settlement housing guideline the Inspector states as follows:

6.1.14 *"18. Bayston Hill is a large village with a range of services and facilities including a convenience store, a primary school, and public transport connections. It is identified as a Community Hub under Policy S16.2 of the Shropshire Core Strategy (2011), which sets a housing guideline for the village of around 50-60 additional dwellings over the plan period to 2026."*

*"19. The Council state that the development would contribute to a 30% oversupply against the housing guideline for Bayston Hill, taking into account recent completions and extant planning permissions. However, Policy S16.2 does not identify this figure as a cap to be applied once the guideline is reached, particularly in an accessible location such as this. Moreover, the provision of a single dwelling would also have only a minor additional impact in this regard."*

*"20. For the above reasons, I conclude that the development would not result in a harmful over provision of housing relative to the settlement housing guideline. It would therefore accord with Policies S16 and S16.2 of the Shropshire Core Strategy (2011)."*

6.1.15 Whilst concerns by the Parish Council and residents are acknowledged, deriving from the Inspector's conclusion above and the main footprint of the proposed dwelling being constricted is within the perimeters of the development boundary albeit in the residential garden, the accessibility of the site to existing infrastructure and services, on balance, it is not considered that the proposed addition would result to an excessive harm to the adjacent countryside to warrant a refusal.

## 6.2 Scale and design of structure

6.2.1 Comments relating to the scale, size and design of the proposed dwelling are acknowledged. However, it is not considered that the dwelling would be out of keeping with the character of dwellings along Lyth Hill Road which are of a uniformed scale, style and designs and different external materials. Nevertheless, the proposed scheme has incorporated design features commonly found in the area. Comments directly relating to building control matters are not issues that can be considered with this planning application as these would fall under different legislations. However, it is considered the dwelling would be built to modern environmental standards with solar panels mounted on the roof .

6.2.2 While it is recognised that the proposed dwelling does not fall within the category of affordable housing, it is adjacent to a cluster of residential dwellings within a recognised settlement. The delivery of housing is consistent with Policies MD1 and MD3 of the Samdev plans and CS1, CS3 and CS11 of Core Strategy which all relate to housing delivery relevant to this application. Furthermore, due to the presence of the existing Bentley House, on balance, the scheme is not considered to adversely impact on the character of the settlement.

## 6.3 Residential amenity

6.3.1 Policy CS6 and MD2 seek to ensure that development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity. Whilst the proposed development would create a new focus for domestic activity, given the orientation, separation distances, the length of the adjacent garden areas together with the site being on lower ground, any effects in terms of noise, disturbance or lighting would be consistent with that of existing activity in this primarily residential area. In addition, it is considered that there would be no undue adverse effect on the living conditions of those occupying the existing residential development. The proposed dwelling would be approximately 26 metres away from neighbouring dwelling known as Ansheen. The distance between the proposed plot and this dwelling would also limit effects with regard to outlook and whilst the proposed would be within close proximity to Bentley House, the orientation of the two dwellings would not give rise to unacceptable degree of overbearing or loss of light and privacy impacts.

6.3.2 Concerns have been raised about the impact on the highway and drainage including the capacity of the treatment plant. Both highways and drainage teams have been consulted and no objections have been raised subject to conditions.

6.3.3 In considering the ecology impacts of the proposal officers recognise that the application site at present is a portion of residential curtilage formed of grassed areas and with some shrub planting areas. Whilst part of the application site would accommodate a new single dwelling, the remainder of the site would remain in its current use as a maintained garden. Admittedly, the area of garden was increased through granting permission for change of use of agricultural land to domestic use. Nevertheless, the existing habitat on site is of a low value and no indication that the site accommodates protected species or examples of habitat which should be protected have been identified. Nevertheless, through the imposition of conditions the applicant will be encouraged to improve the biological habitats on site through the planting of native species to the site's boundaries. As such officers conclude that

the proposal is in accordance with CS17 and MD12 of the adopted development plan and no harm to protected species or habitats worthy of retention has been identified.

## **7.0 CONCLUSION**

On balance, with consideration to all the material consideration, whilst it is acknowledged that part of the application site, (residential curtilage), is located outside the development boundary, the proposed would contribute to the delivery of housing and is therefore consistent with Policies MD1 and MD3 of the SamDev plan and CS1, CS3 and CS11 of the Core Strategy as the policies relate to housing delivery. In addition, the proposed development would provide a single residential unit and contribute to local housing delivery, mix and density in Bayston Hill, a Community Hub settlement that is considered to be in a relatively sustainable location within accessibility to a range of services, infrastructure and community and also identified as appropriate settlement for additional housing. It is considered that the proposed development would not have an adverse impact on amenity space of residents of neighbouring properties and the adjacent rural environment. The scheme is therefore on balance considered to comply with local and national planning policies whereby it is recommended that planning permission is granted.

## **8.0 Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced

against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

### **8.3 Equalities**

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

### **9.0 Financial Implications**

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

## **10. Background**

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

### RELEVANT PLANNING HISTORY:

14/00883/TPO To fell 1No Holly Tree protected by SABC (Land at or adjacent to Betley Orchard, 111 Lyth Hill Road, Bayston Hill) TPO 2008 GRANT 9th April 2014

14/01914/FUL Erection of extensions and alterations to dwelling; erection of detached garage GRANT 19th February 2015

14/02296/OUT Outline application (access for approval) for residential development of one dwelling WDN 17th November 2014

15/01106/FUL Erection of 1No dwelling GRANT 25th April 2016

16/04062/FUL Conversion of existing stables to a 1bedroom dwelling and detached 3 open bay garages WDN 16th November 2016



17/01918/FUL Erection of one dwelling with integral garage with parking and amenity area following demolition of existing buildings to include works to, and removal of, trees GRANT 28th July 2017

20/02833/COU Change of use from agricultural to domestic curtilage (garden) GRANT 22nd September 2020

21/03387/FUL Erection of 1No dwelling, formation of vehicular access and installation of treatment plant PDE

SA/89/0680 Erection of a steel framed fire escape. PERCON 25th August 1989

21/03387/FUL Erection of 1No dwelling, formation of vehicular access and installation of treatment plant PDE

## 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)
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Cabinet Member (Portfolio Holder) Councillor Ed Potter
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Local Member Cllr Ted Clarke Cllr Tony Parsons Cllr Rosemary Dartnall
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Appendices APPENDIX 1 - Conditions
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**APPENDIX 1****Conditions****STANDARD CONDITION(S)**

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

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

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

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

3. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

4. No development shall take place until a scheme of surface and foul 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.

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

5. All hard and soft landscape works shall be carried out in accordance with the approved plan P/2021/77/04. The works shall be carried out prior to the occupation / use of any part of the development hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously

damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

6. 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.

7. 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.

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

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2, Part 1 shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities.

### **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. 1. 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. 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 5.0 l/s 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.

2. 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	

3. If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, the applicant should submit for approval a drainage system to ensure that no surface water runoff from the new access run onto the highway.

4. The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2.

If main foul sewer is not available for connection, full details, plan and sizing of the proposed package sewage treatment plant including percolation tests for the drainage field should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water 'Flows and Loads: 4' should be used to determine the loading for the package sewage treatment plant and the sizing of the package sewage treatment plant and drainage fields should be designed to cater for the correct number of persons and in accordance with the Building Regulations H2. These documents should also be used if other form of treatment on site is proposed.

### 3. Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or 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 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.

4. 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.

5. 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 & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

<https://shropshire.gov.uk/media/2241/supplementary-planning-guidance-domestic-waste-storage-and-collection.pdf>

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Committee and Date  
 Northern Planning Committee  
 23<sup>rd</sup> November 2021

Item  
**7**  
 Public

## Development Management Report

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

### SCHEDULE OF APPEALS AS AT COMMITTEE 23<sup>rd</sup> November 2021

#### Appeals Lodged

<b>LPA reference</b>	21/02806/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Mr P Roberts
<b>Proposal</b>	Application under Section 73A of the Town And Country Planning Act 1990 for the reinstatement of fire damaged garage workshop, with no intensification of the existing business
<b>Location</b>	Brickfield Cottage Hanwood Road Shrewsbury
<b>Date of appeal</b>	10.09.2021
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	21/03337/CPE
<b>Appeal against</b>	Refused/refused in part to grant a Certificate of Lawful Use or development
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Mr and Mrs P and R Roberts
<b>Proposal</b>	Application for a Certificate of Lawful Development and use of land at Brickfield Cottage, Edgebold as a car repair/maintenance business having been carried out on site for well in excess of ten years including the parking and storage of cars as illustrated edged red on the plan. In effect this is a mixed use planning unit of residential and business C3 and E (formerly B2 and or sui generis) under the Use Classes Order.
<b>Location</b>	Brickfield Cottage Hanwood Road Shrewsbury
<b>Date of appeal</b>	28.09.2021
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	20/05367/REM
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr L Gilbert
<b>Proposal</b>	Application for reserved matters (appearance, landscape, layout and scale) for an agricultural workers dwelling and means of access
<b>Location</b>	Little Acorns Spoonley Market Drayton
<b>Date of appeal</b>	28.05.2021
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	



<b>LPA reference</b>	20/05112/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs J Bradley
<b>Proposal</b>	Use of existing timber lodge as holiday accommodation and siting of temporary dwelling to allow the owners of the land to live on site
<b>Location</b>	Wollerton Meadows Wood Lane Wollerton
<b>Date of appeal</b>	29.10.2021
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	21/01645/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Ms Jane Thompson
<b>Proposal</b>	Application under Section 73A of the Town and Country Planning Act 1990 for the erection of an ancillary annex in residential curtilage (retrospective)
<b>Location</b>	3 Lee Hill Lee Brockhurst Shrewsbury
<b>Date of appeal</b>	28.10.2021
<b>Appeal method</b>	Fast Track
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	21/02220/VAR
<b>Appeal against</b>	Refusal to vary or remove a condition
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs Craig Duell
<b>Proposal</b>	Variation of Condition 2 (approved plans) relating to Planning Permission 20/04053/FUL
<b>Location</b>	Brook House Wem Lane Soulton Wem
<b>Date of appeal</b>	12.07/2021
<b>Appeal method</b>	Fast Track
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

### Appeals Determined

<b>LPA reference</b>	20/03017/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Ms G Foxley and Mr S Forbes
<b>Proposal</b>	Erection of local needs dwelling including garage and access
<b>Location</b>	South of Little Wicketts Wem
<b>Date of appeal</b>	25.08.2021
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	11th and 12 <sup>th</sup> October 2021
<b>Date of appeal decision</b>	08.11.2021
<b>Costs awarded</b>	Refused
<b>Appeal decision</b>	<b>ALLOWED</b>

<b>LPA reference</b>	20/04713/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Gemma Davies
<b>Proposal</b>	Erection of two storey extension
<b>Location</b>	Holly Cottage Grimpo West Felton
<b>Date of appeal</b>	21.07.2021
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	22.10.2021
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>

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# Appeal Decision

Hearing held on 12 October 2021

Site visits made on 11 and 12 October 2021

**by J Williamson BSc (Hons) MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 November 2021**

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**Appeal Ref: APP/L3245/W/21/3275873**

**Land South The Little Wickett, Rye Bank, Wem SY4 5RA**

- 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 Ms G Foxley & Mr S Forbes against the decision of Shropshire Council.
  - The application Ref 20/03017/FUL, dated 28 July 2020, was refused by notice dated 11 February 2021.
  - The development proposed is erection of a local needs dwelling including garage and access.
- 

## Decision

1. The appeal is allowed, and planning permission is granted for the erection of a local needs dwelling including garage and access, at Land South The Little Wickett, Rye Bank, Wem SY4 5RA, in accordance with the terms of the application and the attached Schedule of Conditions.

## Procedural Matters

2. Parties agreed at the hearing that the address provided in the header is correct.
3. A Section 106 legal agreement (s106) was submitted following the close of the hearing<sup>1</sup> which would secure the proposal to remain as an affordable dwelling in perpetuity. I consider the s106 to be necessary, directly related to the proposal, and to accord with the development plan. As such, it would accord with the tests for planning obligations set out in the National Planning Policy Framework (the Framework).
4. A copy of Policy CS1 of the Shropshire Local Development Framework: Adopted Core Strategy-2011, (CS), was submitted at the hearing, upon my request. I consider no one would be prejudiced should I consider the s106 and Policy CS1 in the determination of the appeal. I have therefore taken them into account.
5. The Draft Shropshire Local Plan: 2016-2038, ie the Emerging Local Plan, (ELP), has been submitted for examination. Having regard to paragraph 48 of the Framework and the evidence before me, I agree with the parties that the ELP has limited weight at this stage.

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<sup>1</sup> Dated 15<sup>th</sup> October 2021.

6. Within the evidence provided the place name of concern is referred to as both 'Rye Bank' and 'Ryebank'. For consistency and ease of reading, I have used Rye Bank throughout the decision, unless quoting from a specific source.

### **Application for costs**

7. An application for an award of costs was made by Ms G Foxley & Mr S Forbes against the decision of Shropshire Council. This application will be the subject of a separate Decision.

### **Main Issue**

8. The main issue is whether the site is a suitable location for a local needs affordable dwelling, taking account of relevant local and national policies and guidance.

### **Reasons**

#### *Local and national policies & guidance*

9. With regard to housing development in rural areas, Policy CS1 of the CS seeks to ensure that rural areas will become more sustainable through a "rural rebalance" approach. Other residential development outside of the settlements of community hubs and clusters will only be for meeting the affordable housing needs of local communities.
10. Policy CS5 of the CS seeks to control development in the countryside. It allows for development on "appropriate sites" that maintain and enhance countryside vitality and character, where such development would improve the sustainability of rural communities; particularly where it relates to affordable housing to meet a local need and in accordance with national policies and Policies CS11 and CS12 of the CS. As well as having to demonstrate the need for such development, the development will be expected to take place primarily in "recognisable named settlements".
11. The explanation of Policy CS5 states that proposals which would result in "isolated, sporadic...or otherwise unacceptable development", or which may erode the character of the countryside, will not be acceptable.
12. Policy CS11 of the CS seeks to meet the diverse housing needs of the area and create mixed, balanced, and inclusive communities. This is to be achieved by, among other things, permitting exception schemes for local needs affordable housing on "suitable sites", including sites in "recognisable named settlements", subject to other criteria, including scale, prioritisation for local people and affordability in perpetuity.
13. Policy MD7a of the Shropshire Council Site Allocations and Management of Development Plan-2015, (SAMDev), seeks to manage development in the countryside. Suitably designed and exception site dwellings will be positively considered where they meet evidenced local housing needs and other relevant policy requirements<sup>2</sup>. Additionally, to protect the long-term affordability of single plot exception dwellings, they will be subject to size restrictions, removal of permitted development rights and other appropriate conditions or legal restrictions.

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<sup>2</sup> The Council has concluded that the appellants satisfy the relevant criteria. I have no justifiable reason to reach a different conclusion.

14. The Council's Type and Affordability of Housing Supplementary Planning Document-2012, (SPD), and Build Your Own Affordable Home Information Pack-2016, (IP), include guidance on development of local needs affordable housing on single plot exception sites. The SPD advises that sites which do not lie within or adjacent to a "settlement", or would adversely affect rural character, are considered not to be acceptable.
15. The SPD emphasises that each case is treated on its merits and that it is a matter of judgement as to whether a group of houses constitutes a settlement. Additionally, the SPD provides guidance regarding aspects to consider when assessing whether a small hamlet constitutes a "recognisable named settlement" (*vis a vis* Policy CS11 of the CS). Thus:
  - a settlement always comprises a "group of houses occupied by households from different families"
  - the group becomes a settlement due to the 'number' and 'proximity' of the houses in a group<sup>3</sup>. It is the combination of these two factors that determines whether the dwellings constitute a settlement
  - "recognisable settlements are also characterised by how local people refer to them - by a place name that is shared by a number of dwellings"
  - it will usually be named on the Ordnance Survey map
  - the character of the area will influence the assessment...a settlement is a relationship between different properties...the limits of a settlement varies, and such limits may differ between loose-knit and tight-knit settlements
  - to assist in the assessment, the views of the local Shropshire Council Member and the Parish Council may be taken into consideration.
16. Policy MD2 of the SAMDev states that, for a development proposal to be considered acceptable, it is required to contribute to and respect locally distinctive or valued character.
17. Policy CS6 of the CS requires all developments to be designed to a high quality and to protect the natural and built environment, taking account of local context and character, including the pattern of development.
18. Paragraph 78 of the Framework advises that, in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs.
19. Additionally, paragraphs 79 and 80 advise that housing should be located where it will enhance or maintain the vitality of rural communities to promote sustainable development in rural areas, although the development of isolated homes in the countryside should be avoided.

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<sup>3</sup> The SPD does not specify the number of dwellings or the nature and extent of their proximity to each other for a group to become a settlement. Additionally, 'settlement' is not defined in the Framework.

### *Site location & context*

20. For planning policy purposes, the site is within open countryside and its land use is agricultural. It is located on the western side of a country lane, immediately south of The Little Wickett, a site which comprises several agricultural buildings and other structures utilised for looking after livestock and burning commercial waste, under licence from the Environment Agency. The site is located opposite an access that serves what was part of a separate farmstead, comprising of farmhouse and some farm buildings. This farmstead has been redeveloped in recent years resulting in creating what, in my opinion, is now a small group of 6 No. dwellinghouses in this location.
21. I appreciate that the presence of the lane would create some separation between the proposed dwelling and the nearest dwellings on the site of the former farmstead. However, given that the lane is narrow and that the access to the proposed site would be directly opposite the access that serves several of the dwellings on the former farmstead, in contrast with the Council's opinion, I am of the view that the proposed dwelling would read as part of this group.
22. The site is located within the place identified on Ordnance Survey maps as "Ryebank". The Council acknowledges in its statement that the local community refer to Rye Bank by its name. In the opinion of the local councillor (as was) Rye Bank consists of 17 residential properties and The Little Wickett, each of which have the postal address of Rye Bank. The councillor also considers the properties to be arranged in a loose-knit, linear pattern of development sited either side of the lane, stemming from Oak Tree Cottage at the northern end to Jessamine Cottage at the southern end. Due to such factors, the councillor's view is that Rye Bank constitutes a named recognisable settlement that accords with relevant local policies and guidance.
23. Parties agree that each of the 17 dwellings identified as having the address of Rye Bank are occupied by households from different families; I have no grounds to conclude otherwise. I agree with the assertion that these properties are arranged in a loose-knit, linear pattern of development. Much of the wider area of north Shropshire is rural and characterised by dispersed hamlets and farmsteads. I consider Rye Bank to constitute a small hamlet like many other hamlets in the surrounding area.
24. Although the Council pointed out at the Hearing that the Parish Council (PC) did not support the proposal, I note that neither did the PC object to the proposal on the grounds of it not constituting a local needs affordable dwelling or the site not being within a named recognised settlement.
25. I have taken account of the illustration of a 'loose-knit' settlement provided in the SPD and the development patterns of some settlements where local needs affordable dwellings have been permitted, eg under applications 17/04907/FUL, 19/03977/FUL, 20/02569/FUL and 20/04102/FUL<sup>4</sup>. To my mind the relationship the proposed dwelling would have with the group of dwellings opposite the site and the pattern of development which constitutes the hamlet of Rye Bank, would not differ significantly from either the development patterns of

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<sup>4</sup> I accept that each case must be determined on its merits. However, I also consider the decisions of the Council on the applications referred to constitute a material consideration. I appreciate that these applications are only a small selection of the Council's decisions on such applications. Nevertheless, and although I attach only limited weight to them, they do provide some insight into how the relevant policies and guidance are interpreted and applied locally.



settlements in the permissions referred to or others within the surrounding north Shropshire area.

26. When viewed from what would be a limited number of public vantage points, I consider the proposal would be seen adjacent to the existing agricultural buildings on The Little Wickett, close to the group of dwellings across the lane at the former farmstead and in keeping with the existing rural, loose-knit, linear pattern of development within Rye Bank. I appreciate the Council's reading of the area and the factors that lead to it concluding the proposal would not read as being associated with any of the existing properties in Rye Bank, and that Rye Bank does not constitute a settlement. However, bearing in mind all the above, I consider the hamlet of Rye Bank to constitute a named, recognised settlement. I therefore also conclude, considering the judgement in *Braintree*<sup>5</sup>, that the proposed development would not create a dwelling that would be isolated from a settlement.
27. I acknowledge that the proposal would not be located close to services and facilities required to meet the day-to-day needs of future occupiers. Nor would it be located close to public transport options, and the opportunities for walking and cycling to access services and facilities to meet every-day needs would be limited. As such, future occupiers would be reliant on a private motor vehicle, which is the least sustainable mode of transport.
28. However, although local policies and guidance seek to direct new rural housing development towards the more sustainable rural communities, inevitably the objectives of the policies and guidance of relevance here, ie providing affordable housing in rural areas to meet local needs to create mixed, balanced, and inclusive communities and become more sustainable, are likely to result in development of the kind proposed not being in proximity to the range of services and facilities future occupants would require to meet their day-to-day needs.
29. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and advises that this should be considered in decision-making. Furthermore, sustainable development, as outlined in the Framework, includes social and economic dimensions. The proposal would allow the appellants to remain in the area, providing an affordable home close to family and existing employment; the proposal would also provide, all-be-it minor, economic benefits during the construction phase. Although both the social and economic benefits associated with the proposal would be small-scale, nevertheless they would contribute to the vitality and therefore sustainability of the rural communities in the area.
30. As noted above, Policy CS6 of the CS requires all developments to take account of local context and character, including the pattern of development. Policy CS5 advises that proposals which would erode the character of the countryside will not be acceptable; and Policy MD2 of the SAMDev requires development to respect local character. I disagree with the Council's conclusion that the proposal would not relate to the pattern of development in Rye Bank and that it would extend into open countryside in a manner unrelated to any existing development. Additionally, the size of the proposal is within the parameters of relevant policy & guidance, the design is in keeping with properties in the area, and external materials could be controlled by condition. I therefore conclude

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<sup>5</sup> *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610

that the proposal would be in keeping with and would maintain the rural character and appearance of the area.

31. Bearing all the above in mind, I conclude that the proposal would not result in isolated or sporadic residential development in the countryside and that it would not harm the character or appearance of the rural area. Additionally, I consider the proposal would make a small contribution to improving the sustainability of the rural communities within which it would be located. As such, I conclude that the site would be a suitable location for a local needs affordable dwelling. The proposal therefore accords with Policies CS5, CS6 and CS11 of the CS, MD2 and MD7a of the SAMDev, guidance in the SPD, and policies pertaining to affordable housing development in the countryside in the Framework.

### **Other Matters**

32. The need for the appellants to build a dwelling as proposed has been questioned. However, as noted above, the Council concluded, following the recognised process of assessment, that the appellants meet the eligibility criteria outlined in the relevant policies and guidance. I have not been provided with any substantive evidence to demonstrate otherwise.
33. It has been suggested that the site and adjacent fields are subject to flooding. Although I have seen the photographs submitted showing pools of water in the fields, I have not been provided with any evidence which demonstrates that there are significant flooding issues on the site. Additionally, as noted below, a condition will be attached to the permission requiring details of foul and surface water drainage to be submitted to and approved by the Council, and subsequently implemented by the appellants.
34. Questions have been raised regarding breaches of planning and environmental control on the site of The Little Wickett. Also, it has been suggested that, should the proposal be allowed, a condition should be attached to prevent the burning of waste on the site of The Little Wickett. However, such matters are outside the scope of this appeal.

### **Conditions**

35. A list of conditions was provided in the signed Statement of Common Ground. Parties agreed at the hearing to the wording of most of the conditions as outlined in the Schedule of Conditions attached, and to the wording of others being amended where necessary to comply with guidance in the Framework and Planning Practice Guidance (PPG).
36. As there have been amendments to plans/drawings during the application process, I have attached a condition specifying the approved plans/drawings, for the avoidance of doubt. As noted above, a condition is attached requiring details of surface water and foul drainage to be approved by the Council, in the interests of managing flooding on site and public health.
37. Conditions are attached requiring details of external materials and landscaping to be approved by the Council, to protect the character and appearance of the area; and, in respect of landscaping, in the interest of biodiversity. I have attached further conditions in the interests of biodiversity and to ensure the protection of protected species. In the interests of highway safety, I have attached conditions related to access, parking and turning areas.

38. I have attached a condition removing certain permitted development rights and a condition preventing the garage being used as residential accommodation. These are to ensure the size of the property remains within the parameters of the size of an affordable dwelling in the area. This complies with Policies MD7a of the SAMDev and CS11 of the CS, and I am satisfied that it adheres to the conditions tests outlined in the Framework and the PPG.

**Conclusion**

39. For the reasons outlined above, I conclude that the appeal is allowed.

*J Williamson*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Peter Richards	Peter Richards & Co Property Consultancy
Martin Parrish	The Planning Group Ltd
Dave Richards	The Planning Group Ltd
Holly Walker	Peter Richards & Co Property Consultancy
Gemma Foxley	Appellant
Simon Forbes	Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Richard Denison	Shropshire Council
Phillip Mullineux	Shropshire Council

### OTHER INTERESTED PERSONS:

James Horsley	Local resident
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## **DOCUMENTS SUBMITTED PRIOR TO, DURING AND FOLLOWING THE HEARING**

1. Statement of Common Ground dated 28 September 2021.
2. Copy of Policy CS1 of the CS.
3. Copies of location plans associated with the following planning permissions: Refs 17/04907/FUL, 19/03977/FUL, 20/02569/FUL and 20/04102/FUL.
4. Section 106 legal agreement dated 15 October 2021.

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### **Schedule of Conditions**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development shall be carried out strictly in accordance with the following approved plans/drawings: Location Plan & Site Plan A-01 Rev B, Proposed Floor Plan and Elevations A-02 Rev A.
- 3) No development shall take place until a scheme of foul 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 first occupied.
- 4) 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.
- 5) Development shall be undertaken in complete accordance with the Ecological Appraisal prepared by Greenscape Environmental dated 17th September 2020.
- 6) Prior to the erection of any external lighting on the site, a lighting plan shall first be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, such as bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed taking account of the advice set out in Guidance Note 08/18, Bats and artificial lighting in the UK, produced by the Bat Conservation Trust and Institute of Lighting Professionals. The lighting shall be installed and operated in accordance with the approved details.
- 7) Prior to the development hereby approved being occupied, details of bat enhancements to be installed on site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to the dwelling being occupied and retained thereafter for the lifetime of the development.
- 8) No above ground works shall commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The landscape works shall be carried out in full compliance with the approved details. Any trees or plants that are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective within a period of five years after planting, shall, upon written notification from the Local Planning Authority, be replaced with others of similar species, size and number as those originally approved, by the end of the first available planting season following notification.

- 9) The approved access, parking and turning areas shall be satisfactorily completed and laid out in accordance with drawing number A-01 Rev B prior to the dwelling being occupied. The access, parking and turning areas shall thereafter be maintained and available for use at all times, without impediment to their designated purposes.
- 10) The approved access shall be constructed in accordance with details outlined in the Shropshire Manual for Adoptable Roads & Transport 2021, and any associated documents. The access shall be completed and available for use prior to the dwelling being occupied.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order revoking and re-enacting that Order with or without modification, no access gates shall be erected within 5 m of the adjacent highway edge; the access and driveway shall be kept clear of any obstruction to their designated purpose for a distance of 5 m from the adjacent highway edge.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order revoking and re-enacting that Order with or without modification, no development relating to Schedule 2, Part 1, Classes A, B, C, D and E shall be carried out.
- 13) The garage building hereby approved shall only be used for storage purposes incidental to the enjoyment of the residential dwelling hereby permitted. The garage shall not be used as living accommodation nor shall it be extended or physically linked to the main dwellinghouse.

<<<<< End of Schedule >>>>>



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## Costs Decision

Hearing held on 12 October 2021

by **J Williamson BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 November 2021

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### **Costs application in relation to Appeal Ref: APP/L3245/W/21/3275873 Land South The Little Wickett, Rye Bank, Wem SY4 5RA**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Ms G Foxley & Mr S Forbes against the decision of Shropshire Council.
  - The appeal was against the refusal of planning permission for erection of a local needs dwelling including garage and access.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Irrespective of the outcome of an appeal, the National Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
3. The applicants have applied for a full award of costs as they consider the Council behaved unreasonably in refusing the planning application. The applicants suggest that the Council failed to determine the planning application in a manner consistent with its decisions on other applications for local needs affordable dwellings in the countryside. Additionally, the applicants contend that the Council has not provided relevant evidence to support its decision in all respects.
4. In response, the Council explain that each application must be assessed on its own merits, against the relevant policies. Ultimately, when determining applications of this nature a judgement must be made regarding what constitutes a 'recognisable named settlement', taking account of guidance in the Council's associated Supplementary Planning Document.
5. I acknowledge that the Council reached a different decision on the appeal proposal to that which it reached on the other cases referred to in submissions and discussed at the Hearing. However, notwithstanding my decision regarding the appeal, from the evidence before me I am satisfied that the decision of the Council in respect of the appeal proposal and its

decisions on the other cases referred to, were reached via a comparable and consistent process and application of relevant policies and guidance. In such cases the decision maker must exercise planning judgement. The Council exercised its judgement and provided sound reasoning for each of the decisions referred to. I therefore consider that the Council did not behave unreasonably in refusing planning application Ref 20/03017/FUL.

6. For the reasons outlined, I therefore conclude that it has not been demonstrated that the Council behaved unreasonably in respect of any substantive or procedural matters associated with the determination of application Ref 20/03017/FUL. Consequently, there has not been any unreasonable behaviour which caused the applicant to incur unnecessary or wasted expense in the appeal process, as described in the PPG. Therefore, an award of costs is not justified.

*J Williamson*

INSPECTOR