

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

Date: Monday, 20 June 2022

Committee:
Southern Planning Committee

Date: Tuesday, 28 June 2022

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

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

There will be some access to the meeting room for members of the press and public, but this will be limited. If you wish to attend the meeting please email democracy@shropshire.gov.uk to check that a seat will be available for you.

Members of the public will be able to access the live stream of the meeting by clicking on this link:

www.shropshire.gov.uk/SouthernPlanningCommittee28June2022

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
Assistant Director – Legal and Governance

Members of the Committee

David Evans (Chairman)
Robert Tindall
Caroline Bagnall
Andy Boddington
Nigel Hartin
Nick Hignett (Vice Chairman)
Hilary Luff
Nigel Lumby
Richard Marshall
Tony Parsons
Christian Lea

Substitute Members of the Committee

Richard Huffer
Kevin Pardy
Claire Wild
Pamela Moseley
Gwilym Butler

Your Committee Officer is:

Tim Ward / Ashley Kendrick Committee Officer

Tel: 01743 257713 / 01743 250893

Email: tim.ward@shropshire.gov.uk / ashley.kendrick@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 8)

To confirm the minutes of the Southern Planning Committee meeting held on 31 May 2022

Contact Tim Ward (01743) 257713.

3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is no later than 5.00pm on Wednesday 22 June 2022

4 Disclosable Pecuniary Interests

Members are reminded that they must declare their disclosable pecuniary interests and other registrable or non-registrable interests in any matter being considered at the meeting as set out in Appendix B of the Members' Code of Conduct and consider if they should leave the room prior to the item being considered. Further advice can be sought from the Monitoring Officer in advance of the meeting.

5 Tadmoor Farm, Hopesay, Craven Arms, Shropshire, SY7 8HF (21/01630/FU) (Pages 9 - 30)

Use of existing building to house milking parlour and associated equipment, plus formation of collecting yard and dirty water lagoon (part retrospective)

6 New dwelling (Cedar House) adj. The Levons, Hazler Road, Church Stretton, Shropshire, SY6 7AQ (21/01955/FUL) (Pages 31 - 42)

Erection of detached garage

7 : Plough House Farm, Little Worthen, Worthen, Shrewsbury, Shropshire, SY5 9HL (21/05713/FUL) (Pages 43 - 60)

Erection of replacement dwelling and installation of package (sewage) treatment plant

8 Proposed Footbridge North Of Newington Craven Arms Shropshire (22/00157/MISC18) (Pages 61 - 72)

Application for Prior Approval under Part 18, Class A of the Town and Country Planning (General Permitted Development (England) Order 2015 for the construction of a footbridge.

9 3 Castle Hill Cleobury Mortimer Kidderminster Shropshire DY14 8DA (22/01523/FUL) (Pages 73 - 82)

Erection of two storey side extension

10 Schedule of Appeals and Appeal Decisions (Pages 83 - 104)

11 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday 26th July 2022



Committee and Date

Southern Planning Committee

28th June 2022

SOUTHERN PLANNING COMMITTEE

Minutes of the meeting held on 31 May 2022

2:00PM in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Tim Ward / Ashley Kendrick

Email: tim.ward@shropshire.gov.uk / ashley.kendrick@shropshire.gov.uk

Tel: 01743 257713 / 01743 250893

Present

Councillor David Evans (Chairman)

Councillors Robert Tindall, Caroline Bagnall, Nick Hignett (Vice Chairman), Hilary Luff, Nigel Lumby, Richard Marshall and Tony Parsons

4 Apologies for Absence

Apologies for absence were received from Councillor Christian Lea (Substitute: Gwilym Butler) and Nigel Hartin.

The Chair advised that that the order in which applications would be taken would be changed and that Item 11 – Land near Shipley, Bridgnorth Road will be taken after the first item and the remaining order will be as the agenda.

5 Minutes

RESOLVED:

That the Minutes of the meetings of the South Planning Committee held on 5th April 2022 and 12th May 2022 be approved as a correct record and signed by the Chairman.

6 Public Question Time

No public questions had been received.

7 Disclosable 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.

Councillor David Evans declared an interest in item 8 – Proposed Residential Barn Conversion at The Hale Barns and would leave the room during the discussion; taking no part in the vote.

Councillor Richard Marshall declare an interest in item 11 – Land near Shipley and would leave the room during the discussion; taking no part in the vote.

Councillor Robert Tindall declared an interest in item 7 – Proposed Affordable Dwelling, Middleton Scriven and would leave the room during the discussion; taking no part in the vote.

8 **Woodcote Wood, Weston Heath, Shropshire (20/05097&8/VAR)**

The Principal Planner introduced the proposals which were to vary Condition 6a of permission reference 17/03661/EIA and Condition 6a of permission reference SC/MB2005/0336/BR in order to increase the maximum permitted output of the quarry from 250,000 to 400,000 tonnes and with reference to the drawings and photographs displayed, he drew Members' attention to the location and description of the site.

Members' attention was drawn to the legal obligations imposed as part of the planning permission for 17/03661/EIA, including traffic routing and management agreements including preventing mineral lorries from using the B4379 and approaching from the north on the A41, and funding by the developer (£50k) for highway improvement works on the A41 and at the Sheriffhales Junction. Objections had been received from Sheriffhales Parish Council who felt that the applicant had not fulfilled these obligations.

Members noted that the delays with the highways improvement works were through no fault of the applicant and were reassured by the Developing Highways Manager that the Section 106 works are in the current Highways Capital programme as a priority and are due to be delivered at the earliest opportunity subject to detailed design and sufficient funding being available.

The Principal Planner advised that an Environmental Impact screening opinion would be issued and a deed of variation would be required if the application was permitted.

Members felt that the applicant had met their obligations and were content that they had agreed to pay for additional road signage to improve highway safety.

RESOLVED:

That in accordance with the Officer recommendation planning permission be granted subject to the conditions and legal obligation set out in Appendix 1 including provision for payment of £25k to fund the cost of vehicle activated signage on the approach to the B4379/A41 junction.

9 **Land near Shipley, Bridgnorth Road, Shipley, Shropshire (22/01875/VAR)**

After declaring an interest, Councillor Richard Marshall left the meeting for this item.

The Principal Planner introduced the application which sought to vary the approved access arrangements for Shipley Quarry under planning permission 17/05303/MAW by removing a right-turn lane, and with reference to the drawings and photographs displayed, he drew Members' attention to the location and description of the site.

Councillor Richard Cotham spoke on behalf of Claverley Parish Council against the application in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Elaine Aldridge spoke on behalf of Worfield Parish Council against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Elliott Lynch, local Ward Councillor made a statement against of the application in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

The Principal Planner advised that an Environmental Impact screening opinion would be issued and a deed of variation would be required if the application was permitted.

Members noted that the objections received were based on concerns that the legal obligations had not been discharged as the ancillary works had not been completed in a timely manner. These included relocation of speed restriction beyond the site access and signage. The Developing Highways Manager confirmed that WSP had been commissioned to provide a detailed design by the end of September with the works being completed by the end of the financial year.

RESOLVED:

That in accordance with the Officer recommendation planning permission be granted subject to the conditions set out in appendix one of the report and subject to the following provisions:

- 1) That if the Parish Council raises any new highway issues which have not already been considered and are assessed to be 'material' by the Chair and Vice-Chair of the committee in consultation with the Interim Planning and Development Services Manager and the Highway Authority then the application will not be determined and will instead be reported back to a subsequent meeting of the committee.
- 2) That if no new material highway issues are deemed to have been identified by the Parish Council by 6th June 2022, and the committee is minded to accept the officer resolution then the committee is asked to give delegated authority to the Interim Planning and Development Services Manager to determine the application after this date.

10 Buildwas Leisure Site, Buildwas, Telford, Shropshire (21/03090/FUL)

The Interim Planning and Development Services Manager introduced the proposals for a change of use of land to create a holiday caravan site including alteration of existing access, formation of internal access roads and footpaths and associated landscaping, and with reference to the drawings and photographs displayed, he drew Members' attention to the location and layout. Members noted the late representations; some of which had been included in the update report.

Members were reminded that the application had previously been deferred due to further clarification on highway safety being requested.

Sue Jones (local resident) spoke against the application in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Claire Wild spoke on behalf of Lorraine Pratt (Buildwas Parish Council) against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Claire Wild, local Ward Councillor spoke against of the application in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

Members raised concerns regarding the land ownership of the proposed access and felt that previous highways issues had not been addressed by the applicant. It was suggested that the access to the north of the site should be investigated further with the implementation of a one-way system, which could form part of a road safety audit.

RESOLVED:

That consideration of the item be deferred to a future meeting as it was felt there was insufficient evidence that previous highways safety issues had been addressed and that Members request that a road safety audit is carried out.

11 Proposed Affordable Dwelling, Middleton Scriven, Bridgnorth, Shropshire (21/05418/FUL)

The Interim Planning and Development Services Manager introduced the proposals for the erection of an affordable home to include detached garage and private treatment plant, and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations.

Members were reminded that a previous application for the site had been resolved to approved by committee but had to be resubmitted as the location of the dwelling had been altered due to overhead cables.

Councillor Robert Tindall, local Ward Councillor spoke in support of the application in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees. He then left the meeting and took no part in the debate or vote.

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

Members felt that the changes to the original application were not significant enough to undermine the committee's previous resolution of approval.

RESOLVED:

That contrary to Officer recommendation planning permission be granted.

12 Proposed Residential Barn Conversion At The Hale Barns, Corfton, Shropshire (22/00279/FUL)

After declaring an interest, Councillor David Evans left the meeting for this item. Councillor Nick Hignett took the Chair.

The Principal Planner introduced the application which was for the conversion of a Dutch Barn from storage into 3No. dwellings for rent, and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations. He confirmed that Members had attended a site visit prior to the meeting.

David Hedgley submitted a statement on behalf of Diddlebury Parish Council in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Cecilia Motley, local Ward Councillor submitted a statement in support of the application in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Jack Wrigley, (Applicant), spoke in support of the proposal on behalf of the applicant in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Members expressed their gratitude for site visits for developments such as this and were impressed with the high standard of the works that had already been carried out. Members noted that due to applicant's local connections, he had already been contacted by local home seekers who were interested in renting one of the properties.

Members noted that the property was in the AONB and that no objections had been received. The work carried out on the barns had been carried out by skilled local tradesmen to a very high standard and that due to the nature of the size of the units and internal arrangements, the properties are functionally aligned to meet local

housing needs, and it avoid future problems that may occur if the barn later returned to agricultural use.

Members were minded to grant permission; delegating authority to officers to apply the following conditions:

- Standard 3-year commencement date
- Standard in accordance with approved scheme
- Samples of materials (doors and windows)
- Landscaping scheme (gardens to be divided into lower and upper terraces)
- Vehicle parking and turning areas to be laid out and surfaced in accordance with an agreed schedule prior to occupation of the development
- No additional external lighting unless details are approved first (in the interests of bats, residential amenities and to protect the AONB)
- Foul and surface water drainage condition
- Advisory note requesting that the developer should use their best endeavours to ensure that the 3 properties are let to local people, ideally within a 10 mile radius.

RESOLVED:

That contrary to Officer recommendation planning permission be granted and that delegated authority be given to the Officers to apply conditions as necessary as listed by the Planning Officer; including an advisory note to work with the Parish Council to encourage the offer of properties to local people.

Councillor David Evans returned to the meeting and took the Chair.

13 2 The Farm, Leebotwood, Church Stretton, Shropshire, SY6 6NA (22/00642/LBC)

The Interim Planning and Development Services Manager introduced the application which was for the replacement of 8No. windows and 3No. doors, and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations.

RESOLVED:

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

14 Workshop adj. 31 Snailbeach, Minsterley, Shropshire, SY5 0NS (22/00742/FUL)

The Interim Planning and Development Services Manager introduced the application which was for the conversion of ancillary domestic workshop/gun store into two holiday letting units, and provision of parking areas, and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations. He confirmed that Members had attended a site visit prior to the meeting.

Members’ attention was drawn to the late representations which had been included in the update report.

The Interim Planning and Development Services Manager advised that the recommendation to approve was subject to the boundary being correct and that there were no land ownership issues.

Members raised concerns that the units were not to be short term lets but used for holiday purposes only. It was confirmed that this would be covered within condition 7.

Members again expressed the importance of site visits for developments such as this as it is an exceptional property. Members noted that the proposals were policy compliant.

RESOLVED:

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

15 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 31st May 2022 be noted.

16 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday 28th June 2022 in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

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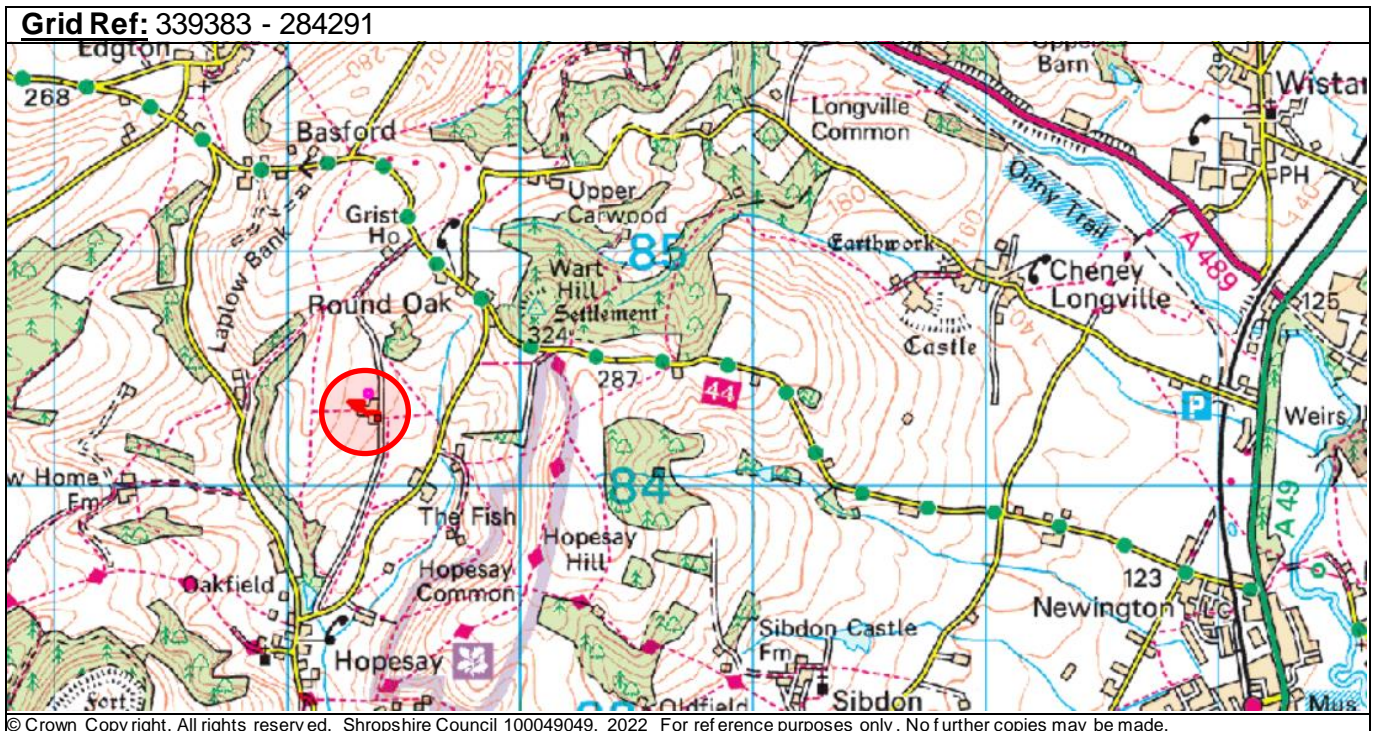
Committee and date
 Southern Planning Committee
 28th June 2022

Development Management Report

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

Summary of Application

Application Number: 21/01630/FUL	Parish:	Hopesay
Proposal: Use of existing building to house milking parlour and associated equipment, plus formation of collecting yard and dirty water lagoon (part retrospective)		
Site Address: Tadmoor Farm, Hopesay, Craven Arms, Shropshire, SY7 8HF		
Applicant: Mr William Grant		
Case Officer: Trystan Williams	email: trystan.williams@shropshire.gov.uk	



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

REPORT

1.0 THE PROPOSAL

- 1.1 In July 2020 the Council resolved not to object to or request further details of a proposal to erect under 'permitted development' rights a new, freestanding agricultural building then stated to be required for storing fodder, straw and machinery (ref. 20/02434/AGR). Subsequently the applicant completed the building to different dimensions and has used it as a milking parlour, thereby negating the permitted development rights (which apply neither retrospectively nor to livestock housing within 400 metres of 'protected' dwellings unconnected with the farm). Also currently unauthorised are an associated feed bin, concrete collecting yard and, in an adjacent field, an earth-bunded lagoon for holding dirty water washed out from the milking parlour before it is spread as fertilizer on surrounding fields. This application therefore seeks to regularise these works by obtaining full planning permission retrospectively, following an investigation by Council enforcement officers.
- 1.2 The milking parlour has a 348m² footprint (including a canopy along the north side and a lean-to to the south) and a 6.8-metre high ridgeline, whereas the previously agreed storage building would have measured 588m² and 4.5 metres to the ridge. It is open to the north, whilst the other sides have concrete panel plinth walls with dark 'Juniper' green box profile steel cladding above and over the roof.
- 1.3 The feed bin stands approximately 7.9 metres tall in the angle between the building's main south wall and lean-to.
- 1.4 The collecting yard covers a 510m² area to the building's east. It is surfaced with concrete setts angled towards a trench drain, and enclosed with low shuttered concrete walls.
- 1.5 The dirty water lagoon is a 5.25-metre deep, 700m² rounded rectangle-shaped and clay-lined basin cut into the natural slope of the field on its west side and retained to the east by a compacted bund planted with grass and trees.
- 1.6 The application also includes the following supporting information:
- Design and Access Statement (DAS; dated March 2021)
 - Nutrient Management Review (dated 26th July 2021)
 - Nutrient Management Plan for 2021 (and which supersedes a previous plan of the holding showing areas for spreading dirty water from the lagoon)
 - SCAIL (Simple Calculation of Atmospheric Impact Limits) modelling output data (received July 2021), plus supplementary spreadsheet (received December 2021)
 - Ammonia Emissions Impact Assessment (dated February 2022)
 - Specifications for a geosynthetic cover proposed to be installed over the lagoon
 - Lichen assessment of nearby ancient woodlands (dated 28th March 2022)
 - Further details from ecological consultant re. ammonia assessment (dated 4th May 2022)
- 1.7 According to the DAS the farm now operates a "low input/low output" New Zealand-

style system whereby cows are milked for 10 months/year and normally kept outdoors rather than being winter-housed. Previously the focus was on rearing replacement heifers for a milking herd based elsewhere.

2.0 SITE LOCATION/DESCRIPTION

2.1 Tadymoor Farm is located in open countryside 1km northeast of Hopesay village, and in the Shropshire Hills Area of Outstanding Natural Beauty (AONB). The applicants now rent c470 acres (190 hectares) of surrounding land. The milking parlour and collecting yard are situated against the hedge- and tree-lined north boundary of a field immediately west of and rising above the earlier farmstead, whose buildings are mainly large, modern, portal-framed and metal-clad. The lagoon is located in an adjacent field to the northeast. Public footpaths run alongside an access track to the southeast, along the southern edge of the field containing the milking parlour, and north-south along a ridge approximately 140 metres to the west.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 For the following reasons, and in accordance with the Council’s adopted ‘Scheme of Delegation’, the application is referred to the Planning Committee for determination:

- The Council’s Local Member requested referral, based on material planning reasons, within 21 days of being notified of the application.
- The officer recommendation of approval is contrary to an objection from the Parish Council, and Shropshire Council’s Planning and Development Services Manager, in consultation with the Planning Committee Chairman/Local Member, agrees that material planning considerations have been raised and warrant consideration by the full committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee comments

4.1.1 Shropshire Hills AONB Partnership:

20/4/21 – comment:

No site-specific comments. However, this indicates neither objection nor lack of objection to the application, and in reaching its decision the local planning authority must still satisfy its legal duty to take into account the purposes of the AONB designation, planning policies concerned with protecting the landscape, plus the statutory AONB Management Plan. The Partnership also reserves the right to make a further, detailed response.

4.1.2 11/5/21 – comment:

The Partnership wishes to express the following concerns.

4.1.3 The retrospective nature of the application is unfortunate in that it involves significant changes compared to the 2020 permitted development scheme, although it does at least mean the effects of the development can be observed in reality. Whilst the additional impacts arise more from the change in the use of the land and associated traffic rather than from the revisions to the building itself, the concrete yard is a substantial additional feature. Meanwhile considerable local objection indicates that the impacts must be considered very carefully.

- 4.1.4 Keeping cattle outdoors year-round is claimed to be environmentally friendly, but this depends greatly on the stocking density, and often the condition of the land in winter ends up necessitating indoor housing to ensure appropriate animal welfare. The land here is hilly and not typical dairy country, so the new system may work the land unsustainably hard and risks environmental damage through compaction and loss of soil structure and quality, both from the livestock and regular passage of vehicles. Combined with periods of very low vegetation cover, this will increase water run-off from a catchment headwater area where the land would ideally retain rainwater for longer to reduce flooding downstream. Increased water run-off could also increase soil erosion, nutrient run-off and diffuse pollution.
- 4.1.5 The liquid stored in the lagoon does contain slurry, albeit diluted. In fact, this dilution makes the slurry even more mobile when spread, so it cannot be correct to say there is no pollution risk. Nearby watercourses are highly sensitive as they hold freshwater crayfish and are tributaries of the River Clun, part of which is designated a Special Area of Conservation (SAC).
- 4.1.6 If planning permission were to be granted conditions may be needed to mitigate the impacts.
- 4.1.7 Shropshire Council Flood and Water Management – comment:
Any permission given should include an ‘informative’ encouraging sustainable surface water drainage systems (SuDS).
- 4.1.8 Shropshire Council Regulatory Services – no objection:
No comments
- 4.1.9 Shropshire Council Highways Development Control – no objection:
The application effectively seeks to regularise the use of a milking parlour where a storage building was previously approved.
- 4.1.10 The approach roads are rural in nature and typically of single vehicle width. The milking parlour will generate some additional vehicle movements which could potentially have some effect on other traffic. However, the movements anticipated in the submitted DAS are relatively minor and would not be amiss in this rural location, bearing in mind established agricultural traffic. It is therefore considered that the development is unlikely to result in severe harm to the highway network such that an objection on highway safety grounds could be sustained.
- 4.1.11 Any permission given should include informatives advising on the need to keep public highways clear of mud and surface water run-off from the development, and on the requisite licence for any works on or abutting highway land.
- 4.1.12 Hopesay Parish Council – objection:
- This application arises from an enforcement case following a deliberate attempt to circumvent the planning system through the previous application for a storage building. Granting planning permission retrospectively, without any penalties or conditions requiring a financial contribution towards upkeep of local infrastructure, will undermine the integrity of the planning process and trust in Shropshire Council, besides setting a precedent elsewhere.

- The submitted information on traffic movements for feed deliveries etc. is at odds with local residents' observations on the ground. Without improved maintenance, the narrow and poorly maintained local roads cannot sustain the additional traffic actually associated with this industrial milking parlour, as is already apparent from damage to tarmac, verges and embankments.
- Increased traffic also endangers pedestrians and disturbs local residents, whilst the damage to road verges and their flora detracts from the area's visual amenity.
- The development is highly visible from common land on Hopesay Hill and other high vantage points.
- Intensive overgrazing will result in soil erosion, loss of habitats on the farm, increased run-off and pollution of watercourses.
- Shropshire Council's stance on potential financial implications of refusing planning permission or imposing conditions (as set out in Paragraph 9.1 of the officer's report on the previous application) puts undue pressure on officers and committees to approve applications which would otherwise be refused, as it grants a charter to applicants who can afford to appeal.

4.1.13 Shropshire Fire and Rescue Service – comment:

Refer to standing advice, especially regarding Building Regulations requirements for access for emergency fire service vehicles and water supplies for firefighting equipment.

4.1.14 Shropshire Council Ecology:

10/6/21 – objection:

Without additional information on potential effects of increased nutrient emissions and sedimentation on designated ecological sites nearby, the application should be refused as the development may cause an offence under relevant legislation and conflict with planning policy.

4.1.15 The site lies upstream of the River Clun SAC, so objective scientific evidence must be submitted to demonstrate that the development will not increase loads of phosphate, nitrogen and sediment entering the designated area. Damage could potentially be caused by construction activity or operation of the development disturbing watercourses, releasing reactive nitrogen (e.g. nitrogen oxides, nitrates or ammonia) or phosphates into water or air (via the slurry lagoon, changes in fertilizer/manure-spreading as a result of the development etc.), or by discharging other pollutants (by disturbing contaminated land, chemical spillages etc).

4.1.16 Where adverse impacts are possible, proposed avoidance and mitigation measures must be detailed.

4.1.17 Aerial emissions of ammonia and deposition of nitrogen could potentially also affect other designated sites including the Long Mynd, Onny River and Flat Coppice Sites of Special Scientific Interest (SSSIs), plus several ancient woodlands. Therefore, detailed emissions modelling by a professional air quality expert is required.

4.1.18 The Environment Agency should be consulted on the dirty water lagoon. The DAS says the dirty water will be applied when necessary, during suitable ground

conditions and using a dribble bar rather than being spread in the air, but a detailed manure management plan may be required.

- 4.1.19 The current and proposed herd sizes should be clarified.
- 4.1.20 Since the lagoon has already been formed, surveying a nearby pond for great crested newts would be pointless. However, appropriate habitat enhancements could be secured by condition.
- 4.1.21 13/4/22 – objection:
Without additional information on potential ammonia impacts on ancient woodland, the application should be refused.
- 4.1.22 Assessments of ammonia emissions and potential impacts on lichen in nearby ancient woodlands have now been submitted, along with proposals to cover the slurry lagoon. It is agreed that those woods actually surveyed exhibit effects of nitrogen pollution, and hence that lichens/bryophytes are unlikely to be an important part of their ecosystems' integrity. A critical level for ammonia of $3\mu\text{g NH}_3/\text{m}^3$ can therefore be applied in those locations.
- 4.1.23 Tables 5.1 and 5.2 of the ammonia emissions report detail the percentage changes in ammonia concentrations in the air at sensitive sites by comparing the previous (pre-development) and current (with the milking parlour and slurry lagoon in situ) scenarios. It is noted that the percentage changes in the *surveyed* woodlands are all at or below 1% of their critical level for ammonia. However, there remains uncertainty about potential effects at some other woodland sites where the increase in ammonia is modelled as being above 1% of a lower, $1\mu\text{g}/\text{m}^3$ pre-development critical level which would apply if lichens/bryophytes *are* important.
- 4.1.24 Table 5.4 compares pre- and post-development critical *loads* for ammonia (i.e. quantities deposited from the air to the ground), and lists twelve sites where the increase is modelled as exceeding 1% of the critical load (ranging from 1.4 to 3.9%).
- 4.1.25 Ammonia emissions and nitrogen deposition increases are confirmed as being below 1% of the critical level and load at the two nearby SSSIs. However, since the modelled impacts at some of the ancient woodland sites are not low enough to be 'screened out', further assessment of whether the development will lead to their deterioration or loss of must be undertaken using appropriate expertise.
- 4.1.26 The current ammonia report also presents a third scenario including mitigation in the form of reduced nitrogen application to the land as required under a sensitive farming initiative which the applicant apparently intends to enter. Whilst any such reduction would be welcomed, the Council cannot rely on this measure because a condition restricting nitrogen application across the wider farm holding may not meet the 'tests' in planning legislation of being relevant to the development, reasonable and enforceable.
- 4.1.27 In terms of the River Clun SAC, potential impacts would in fact be avoided through other legislation already applicable to the slurry store and associated manure

management.

4.1.28 27/5/22 – comment:

No objection is now raised, subject to conditions being imposed to mitigate effects of ammonia on sensitive ecological sites.

4.1.29 In response to previous comments, the applicant's ecological consultant has now completed further assessment on the impacts of ammonia emissions. This confirms that even after the development, the relevant critical level of $3\mu\text{g}/\text{m}^3$ will not be exceeded at any of the surrounding ancient woodland sites. Therefore, deterioration or loss of such woodland through increased ammonia concentrations is unlikely.

4.1.30 In terms of critical *loads*, the report justifies using a value of $15\text{kgN}/\text{ha}/\text{yr}$ based on the characteristics of the woodland surveyed and extrapolating this out to other nearby woodlands. Based on the evidence presented this is not disputed. The development is predicted to give rise at four sites to increased nitrogen deposition slightly above 1% of this critical load (ranging from 1.1% to 1.6%), and an increase of 2.6% of the critical load at Cabin Wood.

4.1.31 A report by Natural England (ref. NC2310) states:

Th[e] lack of an overall relationship between species richness and N[itrogen] deposition makes it difficult to assume a dose-response relationship to broad-scale N deposition in woodlands over a national gradient. However, it seems likely that the edges of the woodlands are likely [sic] to be more strongly affected by a nearby pollutant source such as an intensive livestock farm (Kirby et al., 20051).

4.1.32 Therefore, to counteract edge effects on Cabin Wood, as recommended in the ecological consultant's latest report, a 10-metre wide buffer of new tree planting should be established along the eastern edge of the woodland and fenced off from the adjacent pastureland. Besides intercepting ammonia emissions from the development itself, this would also buffer the ancient woodland from fertilizer applications.

4.1.33 Additionally, the previously submitted SCAIL modelling report and Nutrient Management Review detail other measures which are already being implemented on the farm under the new dairy system, including a reduction in mineral fertilizer application (as the change to dairy farming means it is no longer necessary to grow silage crops as were required to support the previous heifer-rearing operation). However, these would occur anyway, even if concerns about ammonia emissions had not been raised. Furthermore, whilst they will further reduce impacts on Cabin Wood and other ancient woodlands, as explained previously they cannot be relied upon to make the development acceptable in planning terms.

4.1.34 Therefore, conditions are necessary to secure precise details and implementation of the woodland buffer zone, plus installation of the proposed slurry lagoon cover within three months.

4.2.35 6/6/22 – comment:

Habitats Regulations Assessment completed (see Appendix 2).

4.1.36 Environment Agency – comment:

Despite the site being upstream of the River Clun SAC, this application does not fit the criteria for bespoke comments by the Environment Agency, whose officers therefore do not propose to review the submitted nutrient management/manure-spreading plans.

4.1.37 Neither is this site regulated under the Environmental Permitting (England and Wales) Regulations 2016 (as amended). However, in terms of other agricultural regulations, the following guidance on slurry lagoons/storage and manure management may assist.

4.1.38 The dirty water lagoon should be constructed in line with the Silage, Slurry and Agricultural Fuel Oil Regulations 2010. Every farmer must comply with these regulations if they build a new store or substantially alter one built before 1st September 1991. The regulations aim to prevent water pollution from stores of digestate, silage, slurry and agricultural fuel oil. They set out requirements for the design, construction and maintenance of new, substantially reconstructed or substantially enlarged facilities for storing those substances. Storage facilities should be sited at least 10 metres from inland freshwater or coastal water, and should have a 20-year life expectancy.

4.1.39 In England and Wales farmers must give the Environment Agency 14 days' notice before they use new or substantially altered stores. The applicant could be advised of this by way of an informative on any planning permission given.

4.1.40 Further advice is contained within the DEFRA Code of Good Agricultural Practice for farmers, growers and land managers.

4.1.41 In relation to subsequently controlling the impacts of manure management on water, the Environment Agency is responsible for enforcing rules relating to The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018. If they are breached, the Agency would take enforcement action in line with its published Enforcement and Sanctions guidance.

4.1.42 The above Regulations are implemented under The Farming Rules for Water. All farmers and land managers are required to follow a set of rules to minimise or prevent water pollution. The new rules cover assessing pollution risks before applying manures, storing manures, preventing erosion of soils, and managing livestock.

4.1.43 It should also be noted that the Environment Agency does actively monitor and advise upon land use management practices during site visits undertaken by field teams.

4.2 **Public comments**

4.2.1 Fourteen separate households object on the following grounds:

- The application is in fact entirely retrospective, and a deliberate attempt to

circumvent the planning process. The building does not accord with the previously approved plans and has been used from the outset as a milking parlour, whilst the grain silo, collecting yard and dirty water lagoon are also already complete and unauthorised.

- Although the building's footprint is smaller than agreed previously, the silo, yard and lagoon make the overall development area much larger.
- The collecting yard is a vast concrete eyesore in the AONB, whilst the industrial-scale milking parlour and grain silo are also clearly visible from many public vantage points including the adjacent footpaths and Hopesay Hill.
- Bad weather and animal welfare requirements are likely to result in another proposal for a large cattle shed, as no suitable facility currently appears to exist.
- It will take many years for the few tree saplings planted in front of the building and around the dirty water lagoon to provide an effective screen.
- The applicant originally told the Parish Council he would only have 140 cows on the farm. The DAS gives a figure of 200, and it is understood this may be expanded to 250.
- Intensively grazing large numbers of cattle outdoors year-round degrades the fields, whose steep gradient and poor/shallow soil have traditionally only been regarded as suitable for sheep and, periodically, a small beef herd. The National Trust has previously had to reduce its stocking rates on nearby Hopesay Hill.
- Run-off or leakage of slurry/dirty water, together with diffuse pollution from fertilizer applied when fields are reseeded with grass crops, will increase levels of phosphates, nitrates and other nutrients entering the river system, thereby causing eutrophication, damaging wildlife and adversely affecting the River Clun SAC downstream. The application form itself says surface water will drain to a nearby watercourse.
- DEFRA mapping shows the whole of Tadymoor and surrounding land as an environmentally sensitive area. Arrangements for manure and nutrient management should therefore be clarified, along with plans to minimise run-off and soil erosion.
- The Environment Agency should have been notified of the dirty water lagoon's construction in advance and carried out an assessment.
- The herd size already exceeds that used in sizing calculations for the lagoon.
- Numbers of trees planted around the lagoon should be clarified. They are unlikely to offset the methane produced by a herd of 200+ cows, or the carbon dioxide emissions involved in constructing the building and collecting yard.
- Fields previously managed specifically to promote wildflowers are now completely denuded of vegetation.
- Although the application form says no trees or hedges will be removed, this is only because they were removed in advance, during the bird nesting season.
- Any impact on local watercourses could exacerbate flooding in Hopesay village.
- A large milk tanker visits the farm every other day, together with at least four bulk feed lorries some weeks. These are too heavy for the narrow and poorly maintained local roads, including the bridge at Aston-on-Clun. Construction traffic has also damaged verges, and, despite recent repairs, the road surface at the junction of the lane leading up to the farm.
- On the location plan the lane to the farm is shown as being outside the applicant's control, yet conversely the DAS says it *is* privately owned, and a sign at the bottom says "no public right of way". This lane was historically the main

thoroughfare from Hopesay to Grist House and Round Oak, and a 2011 application to register it as a public right of way remains unresolved.

- Electric fencing has been placed across public footpaths through the farm.
- The applicant's attempts to prevent public access may have prevented the site notice from being seen.
- The development will not provide any new jobs in the area.
- If permission *is* granted, conditions should ban any further new buildings or conversions of existing ones, and restrict the number of cows kept on the holding to an absolute maximum of 200.

4.2.2 Nineteen separate households including the landowner, plus the National Farmers Union County Advisor, support the application on the following grounds:

- Applying for planning permission retrospectively is perfectly legitimate and within the law.
- The development has diversified an established business and created two full-time jobs for local people.
- The applicant and his family are young and local and have successfully operated a similar venture elsewhere in Shropshire.
- There is a strong economic need to support British produce post-Brexit.
- Relative to the size of the holding the farming system adopted has low inputs and a low stocking density, and the cows are kept outside except when milking, so it is far from intensive or 'industrial'.
- The land at Tadymoor is not well suited to arable farming so has always had animal stock. The applicant has in fact kept and overwintered 200+ youngstock and over 150 dry cows here since 2017. The only difference is that 120 of them are now milked on-site. The other animals present are calves.
- The dairy industry is highly regulated by other legislation and authorities whose roles the planning system should not duplicate.
- Reports of animal welfare concerns have been investigated and proved unfounded.
- The scheme accords with objectives in the AONB Management Plan for a living, working landscape with a sustainable economy and communities.
- More traditional approaches to hill farming are no longer viable.
- The milking parlour is proportionate to the pre-existing farmstead, and little more prominent given its dark green cladding and position against a hedge.
- Being cut into a slope and planted with trees, the slurry lagoon is barely visible in the landscape. At close range it resembles a pond.
- A 15-metre length of hedgerow was damaged but has since been replanted.
- The rotational grazing system is environmentally friendly in that it uses little purchased feed from elsewhere (thereby minimising the effects of growing, harvesting, processing and transportation) and has lower ammonia and carbon emissions than housing cows year-round.
- The low stocking numbers and minimal yard space mean slurry and dirty water can be accommodated easily and spread lightly over the more than adequate acreage.
- Slurry/water from the milking parlour and concrete yard is contained by bunds/walls, piped to the lagoon and spread at the appropriate time back onto the fields where the cows were kept in the first place. Increased pollution is therefore highly unlikely.

- The tenant and landowner have much other land managed under Natural England stewardship, and in conjunction with the Shropshire Wildlife Trust and AONB Partnership officers, some of it as wildflower meadows. Comparatively little requires regular reseeded.
- Now that the development is complete, vehicle movements are limited to a small milk truck every other day, plus nine loads of bulk feed spread over ten months of the year (there is a seasonal need for feed when calves are born, just as there is when sheep lamb).
- The wider area has numerous other working farms whose vehicles use the same road network.
- The access drive is a restricted byway whose usage is defined by highway legislation. The farm has a right to use it.

5.0 THE MAIN ISSUES

- Procedural matters
- Principle and scale of development
- Design and landscape impact
- Drainage and ecology
- Access, highway safety and rights of way
- Other matters

6.0 OFFICER APPRAISAL

6.1 Procedural matters

6.1.1 Section 73A of the Town and Country Planning Act 1990 provides a legal basis for applying for unauthorised development retrospectively. This application must therefore be considered objectively against planning policy, like any other, and the applicant's motives for deviating from the previously agreed scheme are irrelevant.

6.1.2 A site notice was displayed at the entrance into the farmyard, where it was visible from a junction of three public footpaths. This met national legislation and the Council's own adopted procedures on publicising planning applications.

6.2 Principle and scale of development

6.2.1 The Council's Core Strategy Policy CS5 and Site Allocations and Management of Development (SAMDev) Plan Policy MD7b facilitate agricultural development in the countryside provided its scale and form are consistent with its intended purpose and the nature of the enterprise concerned, its siting relates closely to existing farm buildings where possible, and there would be no unacceptable impacts on environmental quality or residential amenity.

6.2.2 In this case the development is immediately alongside and associated with a long-established farmstead at the centre of a sizeable holding. Although the nature of the operation has shifted from cattle-rearing to dairy farming under the current tenancy, and this has undoubtedly been facilitated by the new milking parlour for which full planning permission is required, it does not in fact amount to a material change of use away from agriculture. Meanwhile the herd size, stocking densities and the system by which the cattle are grazed on the surrounding fields are essentially commercial decisions subject to other legislation and largely outside of planning control (indeed, as noted in the public comments, the applicant

outwintered cattle previously).

6.2.3 The milking parlour and other associated development are simply and functionally designed and not unusually large in relation to the earlier buildings or the overall holding size. The acceptability or otherwise of any further development, such as a cattle shed, would need to be assessed if and when an application is submitted, and can cannot be predetermined at this stage.

6.2.4 For these reasons officers find the development acceptable in principle, subject to a condition reinforcing its agricultural use. Environmental and other impacts will be considered below.

6.3 Design and landscape impact

6.3.1 NPPF Paragraph 176 requires great weight to be given to conserving landscape quality and character in AONBs.

6.3.2 The milking parlour's additional height compared to the previously approved storage barn is acknowledged, as is the fact that it is discernible in views from the surrounding hills and clearly visible from the footpath to the south. However, it is seen in the context of the earlier adjacent buildings, and generally against a backdrop of higher ground and/or partially filtered/obscured by the landform or established trees and hedges. Its dark green cladding is visually recessive, whilst the recent new planting (which can be reinforced and protected through a landscaping condition) will further soften its appearance in time. Moreover, although functional looking it is fairly typical of modern agricultural development throughout the countryside. As such officers do not consider that it is unduly prominent or otherwise demonstrably harms the essentially open character or scenic beauty of the wider landscape, and it is also noted that the AONB Partnership does not object on visual amenity grounds per se.

6.3.3 Similarly the collecting yard, lying between the milking parlour and earlier buildings, and again being concealed by vegetation or the topography from most aspects, does not significantly detract from the wider landscape. It will also weather over time. Meanwhile the lagoon is already barely discernible except at very close range.

6.4 Drainage and ecology

6.4.1 The River Clun SAC downstream is designated for its population of rare freshwater pearl mussels. It is currently in an unfavourable condition, largely due to excess nutrients and sedimentation in the river. In particular, additional nitrogen, phosphate and sedimentation is likely to worsen the SAC's condition. Under the Habitats Regulations, the Council cannot legally grant planning permission without certainty that the development concerned would not have adverse effects.

6.4.2 As summarised above and explained further in the HRA attached as Appendix 2, the Council's Ecology Team is now satisfied that the SAC's integrity would not be compromised. Whilst leakage from the slurry lagoon and spreading of dirty water on the fields have been identified as pathways by which the SAC could *potentially* be affected, because these aspects are already tightly regulated and enforced by the Environment Agency through other legislation this will provide effective

mitigation.

- 6.4.3 Following the submission of further, detailed information the Ecology Team also accepts that, subject to conditions to ensure installation of a cover over the slurry lagoon and completion of further tree planting along the edge of nearby Cabin Wood (on land controlled by the applicant), the development would have no significant effects on the integrity of any ancient woodland sites.
- 6.4.4 The vast majority of pre-existing trees and hedges around the site appear to have been retained, whilst the new planting will afford some ecological enhancements besides helping to screen the development. Although the scheme is unlikely to be carbon-neutral, this is not in fact a policy requirement even of the physical works which are subject to planning control.
- 6.4.5 As can be seen from the supporting comments, objectors' concerns about loss of wildflowers and soil erosion are disputed by the landowner. In any event it is reiterated that the planning system cannot control the way in which the fields are grazed, planted, harvested or rotated.
- 6.4.6 Surface water run-off from the development should not be significant given that the milking parlour's roof area is smaller than the previously approved storage building, and that rainfall over the yard is collected and held in the dirty water lagoon, which in that respect effectively acts as a large attenuation pond. The Flood and Water Management Team's lack of objection is also emphasised.
- 6.5 **Access, highway safety and rights of way**
- 6.5.1 Whilst noting objectors' concerns about increased traffic, officers give greater weight to the Highways Development Control Team's professional advice that other local farms or the fallback of alternative farming systems here could conceivably generate broadly similar vehicle movements, and that refusing planning permission on highway safety grounds would probably not be sustained in the event of an appeal. It is also acknowledged that construction traffic may have had some localised impacts on the road network, but this would have been temporary and difficult to attribute categorically to this particular development.
- 6.5.2 The ownership, use and maintenance of the unadopted lane up to Tadymoor Farm is essentially a civil matter. Meanwhile the unresolved application to register it as a public right of way, together with any instances of current footpaths being obstructed, are also separate issues subject to other legislation and processes. Appropriate informatives are recommended, however.
- 6.6 **Other matters**
- 6.6.1 Being over 300 metres from the closest neighbouring dwelling, and with other farm buildings in-between, the development is unlikely to significantly affect residential amenity in terms of noise, odour or appearing overbearing.
- 6.6.2 The Fire and Rescue Service's standing advice is again addressed under separate legislation.
- 6.6.3 Finally, with reference to the Parish Council's comments, the paragraph concerning

financial implications in the officer's report on the previous application (and repeated below) is standard wording merely highlighting the potential financial costs involved in the event of an appeal against the Council's decision on any planning application. However, it does not tie members of the Planning Committee to any particular course of action.

7.0 CONCLUSION

7.1 The development is acceptable in principle as it relates spatially and functionally to a long-established farm which, fundamentally, is diversifying into new agricultural markets, and whose activities and management are generally regulated under separate legislation. The building is taller than that approved previously in the same position, and the development footprint greater overall, but in the context of the established farmstead and surrounding topography, and with appropriate landscaping, officers feel it does not appear isolated or otherwise unduly prominent within the landscape. Potential ecological impacts can be adequately mitigated through conditions and other legislation, and on balance highway safety impacts are not considered so severe as to warrant refusal. Moreover, no significant or direct impacts on residential amenity, surface water drainage or public rights of way are anticipated either. Overall, therefore, the application is considered to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce critical aspects.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk management

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

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

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

8.2 Human rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

Relevant Planning Policies:

Central Government Guidance:

National Planning Policy Framework

Shropshire Local Development Framework:

Core Strategy Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS13 - Economic Development, Enterprise and Employment

CS17 - Environmental Networks

CS18 - Sustainable Water Management

SAMDev Plan Policies:

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

Relevant Planning History:

20/02434/AGR – Erection of agricultural storage building (prior approval not required; July 2020)

11.0 ADDITIONAL INFORMATION

View details online: [21/01630/FUL | Use of existing building to house milking parlour and associated equipment, plus formation of collecting yard and dirty water lagoon \(part retrospective\) | Tadymor Farm Hopesay Craven Arms Shropshire SY7 8HF](#)

List of Background Papers: Application documents available on Council website
Cabinet Member (Portfolio Holder): Cllr Ed Potter
Local Members: Cllr David Evans Cllr Hilary Luff
Appendices: Appendix 1 – Conditions and Informatives Appendix 2 – Habitats Regulations Assessment

APPENDIX 1 – CONDITIONS AND INFORMATIVES

STANDARD CONDITIONS

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

Reason: To define the consent and otherwise ensure a satisfactory development in accordance with Policies CS5, CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITIONS RELEVANT FOR LIFETIME OF DEVELOPMENT

2. Within three months of the date of this permission, precise details of all existing trees and hedges on and adjacent to the application site, to include numbers/densities, species and planting sizes of trees planted on the areas shaded green on the approved block plan, shall be submitted to the local planning authority for agreement. Any of these trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that the external appearance of the development is satisfactory, and to help safeguard the visual amenity of the Shropshire Hills Area of Outstanding Natural Beauty, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

3. Within three months of the date of this permission, precise details of additional tree planting and associated fencing as indicated in Section 4 of the submitted document entitled 'Response to letter from SC Ecology dated 12/4/22, requesting additional information to assess the impacts of ammonia on ancient woodland at Tadymoor Farm, Hopesay, Craven Arms' (by Kate Thorn (Churton Ecology) and dated 4th May 2022) shall be submitted to the local planning authority for approval. The scheme shall include:
 - a) A location plan and fencing specification for a buffer zone at least 10 metres wide along the eastern edge of Cabin Wood, where tree planting will take place and from which livestock and fertilizer applications will be excluded
 - b) A planting plan including a schedule of tree species, planting sizes and proposed numbers/densities
 - c) A written specification for establishment of planting and aftercare.

The planting shall be carried out in accordance with the approved details within the first tree planting season following the date of this permission. Any of these trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species.

Reason: To mitigate impacts on sensitive environmental receptors, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

4. Within three months of the date of this permission, the dirty water lagoon hereby permitted shall be fitted with a sealed floating cover as specified in details received by the local planning authority on 1st March 2022. This cover shall be maintained in an effective state and in accordance with manufacturer's guidelines for the lifetime of the development.

Reason: To mitigate impacts on sensitive environmental receptors, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

5. The development hereby permitted shall only be used for the purposes of agriculture as defined by Section 336(1) of the Town and Country Planning Act 1990, and for no other purpose whatsoever.

Reason: To prevent the use of the building for purposes which might be inappropriate in the open countryside, in accordance with Policy CS5 of the Shropshire Local Development Framework Adopted Core Strategy.

INFORMATIVES

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

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

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

2. The dirty water lagoon should be constructed in line with the Silage, Slurry and Agricultural Fuel Oil Regulations 2010, and appropriate notice given to the Environment Agency. Further advice is available at:
 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290135/LIT_7783_9e2698.pdf; and
 - <http://www.defra.gov.uk/publications/files/pb13558-cogap-090202.pdf>.
3. The Environment Agency is responsible for enforcing rules relating to The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018. If they are breached, the Agency would take enforcement action in line with its published Enforcement and Sanctions guidance.

The above Regulations are implemented under The Farming Rules for Water. All farmers and land managers are required to follow a set of rules to minimise or prevent

water pollution. The new rules cover assessing pollution risks before applying manures, storing manures, preventing erosion of soils, and managing livestock. Full details can be found at <https://www.gov.uk/guidance/rules-for-farmers-and-land-managers-to-prevent-water-pollution>.

It should also be noted that the Environment Agency does actively monitor and advise upon land use management practices during site visits undertaken by field teams.

4. In the interests of fire safety, you should refer to the information contained within the Shropshire Fire and Rescue Service document entitled 'Fire Safety Guidance for Commercial and Domestic Planning Applications', available at <https://www.shropshirefire.gov.uk/safety-at-work/planning-applications>.
5. This planning permission does not authorise the obstruction, realignment, reduction in width, resurfacing or other alteration of any public right of way, temporarily or otherwise. Before carrying out any such operation you should consult Shropshire Council's Outdoor Recreation Team and obtain any closure order or further consents which may be required.
6. This consent does not convey any right of vehicular access over any public right of way, and it is a road traffic offence to drive a motor vehicle on a public footpath, bridleway or restricted byway without lawful authority. Any person intending to use a right of way for vehicular access should first satisfy themselves that such a right exists, if necessary by taking legal advice.
7. This planning permission does not authorise any right of passage over, or the obstruction, realignment, reduction in width, resurfacing or other alteration of, any private driveway or right of access. Before carrying out any such operation you should first satisfy yourself that you have the necessary consent from the landowner(s) and any other affected party, if necessary by taking legal advice.
8. In order to control/attenuate surface water at source and avoid increasing the risk of flooding at the site or elsewhere, the use of sustainable drainage systems (SuDS) such as soakaways designed in accordance with BRE Digest 365, water butts, rainwater harvesting, permeable paving, attenuation and grey water recycling should be considered.
9. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework Paragraph 38.

APPENDIX 2 – HABITATS REGULATIONS ASSESSMENT (HRA)

1.0 Introduction

The proposal described below has the potential to adversely affect a designated site of international importance for nature conservation. The likelihood and significance of these potential effects must be investigated.

This is a record of the Habitats Regulations Assessment (HRA) of ‘*Use of existing building to house milking parlour and associated equipment, plus formation of collecting yard and dirty water lagoon (part retrospective) - Tadymor Farm, Hopesay, Craven Arms, SY7 8HF (21/01630/FUL)*’ project, undertaken by Shropshire Council as the Local Planning Authority. This HRA is required by Regulation 61 of the Conservation of Habitats and Species Regulations 2017 (as amended), before the council, as the ‘competent authority’ under the Regulations, can grant planning permission for the project. In accordance with Government policy, the assessment is also made in relation to sites listed under the 1971 Ramsar convention.

Date of completion for the HRA:

06/06/2022

HRA completed by:

Suzanne Wykes, Specialist Practitioner (Ecology)

2.0 HRA Stage 1 – Screening

This stage of the process aims to identify the likely impacts of a project upon an international site, either alone or in combination with other plans and projects, and to consider if the impacts are likely to be significant. Following recent case law (*People Over Wind v Coillte Teoranta C-323/17*), any proposed mitigation measures that are not an integral part of the project but are to avoid or reduce adverse impacts are not taken into account in Stage 1. If such measures are required, then they will be considered in stage 2, Appropriate Assessment.

2.1 Table 1: Details of project

Name of plan or project and description	21/01630/FUL <i>Use of existing building to house milking parlour and associated equipment, plus formation of collecting yard and dirty water lagoon (part retrospective) - Tadymor Farm, Hopesay, Craven Arms, SY7 8HF</i>
Name and description of Natura 2000 sites	The River Clun is a tributary of the River Teme, which is the second largest tributary of the River Severn, draining a hilly, predominantly rural catchment of Silurian and Devonian rocks. The site includes only the lower reaches of the river and extends upstream from the confluence with the Teme to Broadward Bridge near Marlow. This section of the river holds a population of the freshwater pearl mussel <i>Margaritifera margaritifera</i> , one of the few lowland populations left in the UK. The freshwater pearl mussel larvae attach to the gills of salmon and trout before eventually detaching and settling in the riverbed gravels where they grow to adulthood.

Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	Yes, multiple other planning applications for new housing units and additional overnight (tourist) accommodation are currently pending consideration in the catchment of the river Clun SAC all of which generate additional nutrient in the catchment.

2.2 Table 2: Screening for likelihood of significant effects

European designated site	Distance from project site	Site vulnerability	Potential Effect Pathways	Screening conclusion
River Clun SAC	7.6km	Soluble Reaction Phosphorous - target exceeded Total Oxidised Nitrogen - target exceeded	<ul style="list-style-type: none"> Increased nutrients derived from diffuse water pollution in River Clun catchment arising from slurry lagoon and dirty water spreading. 	Screened in as proposal could have a likely significant effect through increased nutrients entering the River Clun.

2.3 Screening Conclusion

Following Stage 1 screening, Shropshire Council has concluded that the proposed development, in the absence of mitigation, is likely to have a significant effect on the River Clun SAC.

3.0 HRA Stage 2 Appropriate Assessment

3.1 Predicted Water Quality Impacts

Freshwater Pearl Mussels are sensitive to changes in water quality, with nutrient enrichment impacting long term adult survival and juvenile recruitment. Recent water quality monitoring shows nutrient concentrations within the River Clun SAC to be exceeding the targets for Soluble Reaction Phosphorous (SRP) and Total Oxidised Nitrogen (TON). Any nutrients entering the catchment upstream of the locations which are exceeding their nutrient targets, will make their way downstream and have the potential to further add to the current exceedance.

Any additional P, N and sediment entering the SAC is likely to make its condition worse. P and N can be discharged to the environment via diffuse agricultural pollution run-off.

3.2 Counteracting (mitigation) measures

The slurry lagoon and associated dirty water management will be regulated by the Environment Agency under the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010 (SSAFO) and the Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 respectively, therefore through existing regulation, impacts to the River Clun SAC will be avoided.

As a retrospective application, the Environment Agency have confirmed that the slurry lagoon constructed complies with the SSAFO Regulations.

3.3 Assessment of Adverse Effects Alone

There will be no adverse effect on site integrity alone.

3.4 Assessment of Adverse Effects in-combination

There will be no adverse effect on site integrity in-combination with any other proposals as residual effects will be absent.

3.5 Securing of mitigation measures

No specific conditions are appropriate as all mitigation is secured, managed and enforced by another competent authority under the Habitats Regulations and the LPA cannot duplicate existing mitigation already in place.

4.0 Final conclusions

Following Stage 1 screening, Shropshire Council concluded that the proposed development, in the absence of mitigation, is likely to have significant effects on the River Clun SAC through the listed pathways detailed in this HRA. Shropshire Council has carried out an Appropriate Assessment of the project, considering further information.

The Appropriate Assessment concludes that the proposed works under planning application reference *21/01630/FUL* will not adversely affect the integrity of the River Clun SAC, either alone or in-combination with other plans or projects.



Committee and date
 Southern Planning Committee
 28th June 2022

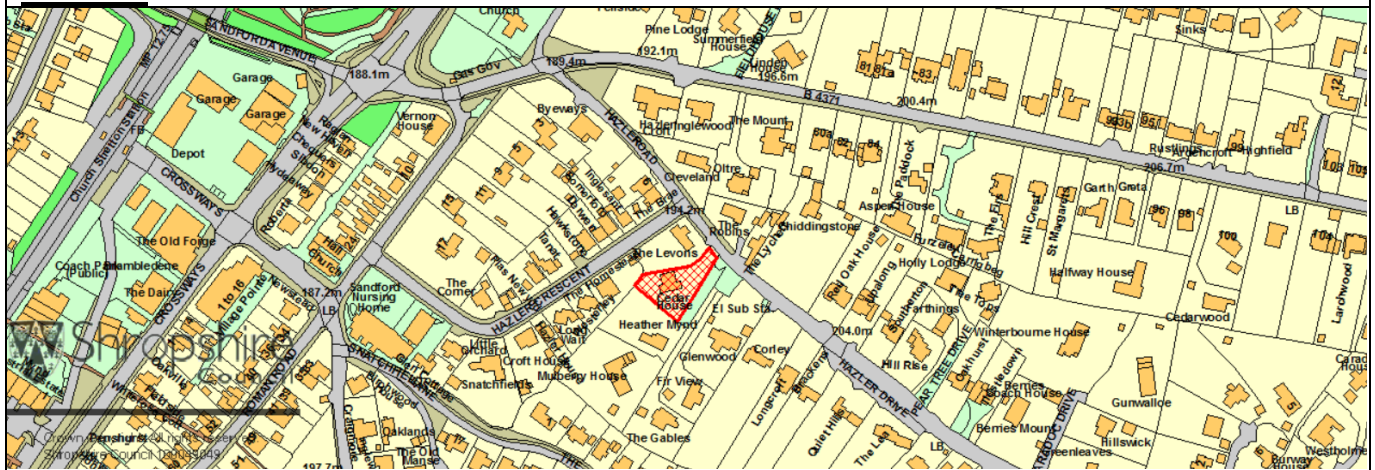
Development Management Report

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

Summary of Application

Application Number: 21/01955/FUL	Parish: Church Stretton
Proposal: Erection of detached garage	
Site Address: New dwelling (Cedar House) adj. The Levons, Hazler Road, Church Stretton, Shropshire, SY6 7AQ	
Applicant: Halco Homes Ltd	
Case Officer: Trystan Williams	email: trystan.williams@shropshire.gov.uk

Grid Ref: 345927 - 293480



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks full planning permission to erect a detached domestic outbuilding in front of a newly built dwelling approved under previous applications 18/01563/OUT and 20/02813/REM. It would be a long, narrow 30.6m² single-storey structure with brick plinth, weatherboarded upper walls, side-hung vertical timber garage doors and a gabled clay tiled roof. It would contain a single garage at the front and a small storeroom behind.
- 1.2 As now clarified on an amended block/landscaping plan, the scheme also involves slight changes to the previously approved layout of the site entrance, and in this respect the application is retrospective. The double timber entrance gates are now slightly wider and aligned more centrally within the narrow road frontage rather than being offset to the right (northwest). Consequently, a short stretch of native hedge planting previously agreed to the left has been omitted except for a very small amount just in front of an established hedge along the southeast boundary. Instead, the gates are hung off brick piers with low stone flanking walls. Meanwhile the garage would encroach into what would have been an open parking space/turning head just inside the entrance, although the driveway would still extend along the building's right-hand side and up to another parking space/turning area in front of the dwelling itself.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The Levons stands alongside the junction of Hazler Crescent with unclassified Hazler Road in Church Stretton's eastern suburbs and conservation area, and the wider Shropshire Hills Area of Outstanding Natural Beauty (AONB). It is a detached 1920s two-storey house faced in brick under a hipped plain tiled roof. On its southeast side, and previously part of its garden, the application site is a 0.095-hectare funnel-shaped plot with a narrow frontage onto Hazler Road as described above, and the new dwelling (now named 'Cedar House', and of two storeys in brick and weatherboarding with a projecting timber-framed and glazed dormer over the entrance) set well back and elevated slightly where the space opens out. The outbuilding would stand just inside and left of the entrance, against the southeast boundary with a tree-lined driveway serving two dwellings on 'backland' plots. Further southeast is another shared driveway and, beyond that, an Arts and Crafts-style house with mock-Tudor and weatherboarded front gables. More dwellings opposite are again varied in form and style, but most have generous plots with established hedges and trees.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 In accordance with the Council's adopted 'Scheme of Delegation', the application is referred to the planning committee for determination because the officer recommendation of approval is contrary to an objection from the Town Council, and Shropshire Council's Planning and Development Services Manager, in consultation with the Planning Committee Chairman and Local Member, agrees that material planning considerations have been raised and warrant consideration by the full committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee comments

4.1.1 Shropshire Hills AONB Partnership – comment:

No site-specific comments. However, this indicates neither objection nor lack of objection to the application, and in reaching its decision the local planning authority must still satisfy its legal duty to take into account the purposes of the AONB designation, planning policies concerned with protecting the landscape, plus the statutory AONB Management Plan. The Partnership also reserves the right to make a further, detailed response.

4.1.2 Shropshire Council Flood and Water Management – comment:

Any permission given should include an 'informative' encouraging sustainable surface water drainage systems (SuDS).

4.1.3 Shropshire Council Historic Environment (Archaeology) – no objection:

No comments

4.1.4 Shropshire Council Historic Environment (Conservation) – no objection:

The garage would be modest in scale and form and would have minimal impact upon the conservation area's character and appearance.

4.1.5 Shropshire Council Tree and Woodland Amenity Protection:

25/5/21 – objection:

For the following reasons it is recommended that planning permission is refused:

- The proposal has arboricultural implications which conflict with the previously approved site layout.
- Since the garage would significantly encroach into the Root Protection Area (RPA) of a retained tree protected by both the conservation area regulations and conditions attached to the previous reserved matters approval for the new dwelling, the scheme also conflicts with good practice as set out in BS5837:2012 '*Trees In relation to demolition design and construction*'.
- Additionally, the proposals would erode the previously approved landscaping scheme without capacity for sustainable compensation or other improvements to the street scene in the conservation area and AONB. This is contrary to aspirations for sustainable design and environmental net gains under the Council's Core Strategy Policy CS6 and Site Allocations and Management of Development (SAMDev) Plan Policies MD2 and MD12.

4.1.6 29/7/21 – objection:

The further amended block/landscaping plan now submitted offers no significant advantages, so the previous objection is maintained. Neither has any additional arboricultural detail or evidence to justify the tree and landscape impacts been provided.

4.1.7 19/11/21 – objection:

Further information from an arboricultural consultant has now been provided. This concedes that a tree protection plan agreed under a previous planning condition was

breached by excavations and siting of a shipping container within the RPA of a whitebeam protected by the conservation area regulations, whilst the house was being built. The consultant proceeds to argue that this has already affected the tree's vigour, and hence that it is now acceptable to construct the outbuilding within the same area provided a 'no-dig' method is used. This is at best an afterthought and damage limitation exercise which cannot be supported. Instead, the excavated ground should be reinstated.

4.1.8 It is also reiterated that, besides the additional built form of the proposed garage, omitting the previously agreed hedgerow planting would further erode the verdant character of the Hazler Road street scene.

4.1.9 Shropshire Council Highways Development Control – objection:

As previously approved the area of the proposed garage would have been used as additional turning space, enabling vehicles to enter and exit the property in a forward gear. Omitting this facility is likely to result in reversing manoeuvres on the public highway. Any garage here should be repositioned to enable turning on-site, as should be confirmed on a dimensioned scale drawing also clearly showing all available parking spaces.

4.1.10 Church Stretton Town Council:

3/6/21 – objection:

By occupying space previously allocated for turning, the proposed garage would lead to drivers having to reverse blindly out onto Hazler Road at a point close to five other property entrances. Furthermore, the previously agreed hedgerow planting is now omitted.

4.1.11 20/7/21 – objection:

The revised block plan includes an existing tree previously omitted, extremely close to the proposed garage, which would encroach into its RPA. Councillors therefore share the concerns of Shropshire Council's Tree Officer.

4.2 **Public comments**

4.2.1 Residents from five separate households have objected on the following grounds:

- The proposed outbuilding at the very front of the site would be too prominent within the street scene and conservation area, and contrary to a Town Council Design Guide which encourages garages to be set back level with or behind established building lines.
- Providing access to the garage would involve omitting new hedgerow planting along the site frontage, in contravention of previous planning conditions and to the detriment of the street scene. This planting was intended to compensate for a hedge which was removed when the new dwelling was built.
- The small section of hedgerow planting now proposed on the amended block/landscaping plan would not remotely meet the requirements of the current planning permission, which includes planting along half of the road frontage.
- The garage would encroach into the RPA of a mature tree which was omitted from the original plan.
- The single garage would occupy a space which might otherwise have

accommodated two cars, leaving inadequate parking provision for the new four-bedroomed house.

- The garage's proximity to the site frontage means it would afford emerging drivers with inadequate visibility along the road, thereby compromising the safety of passing traffic and pedestrians.
- The garage would leave inadequate turning space within the site and result in drivers reversing into the road.

5.0 THE MAIN ISSUES

- Principle of development
- Layout, scale, design and impacts on conservation area/wider landscape
- Access and highway safety
- Impact on residential amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The development is acceptable in principle as it relates to the previously approved and now established new dwelling on the site. Ancillary use of the outbuilding would be reinforced through a standard condition.

6.2 Layout, scale, design and impacts on conservation area/wider landscape

6.2.1 Core Strategy Policy CS6 and SAMDev Plan Policy MD2 expect all development to protect, restore, conserve and enhance the natural, built and historic environment, and to reinforce local distinctiveness by taking account of building forms, scale and proportion, heights and lines, materials and architectural detailing. Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council must have particular regard to the desirability of preserving or enhancing the character and appearance of conservation areas. This is reflected by Part 16 of the National Planning Policy Framework (NPPF) and SAMDev Policy MD13, which attach great weight to conserving the significance of designated heritage assets and require even 'less than substantial' harm to be weighed against any public benefits of the proposal. The NPPF also requires great weight to be given to conserving landscape quality and character in AONBs.

6.2.2 It is agreed with the Conservation Officer that the outbuilding itself would not be unduly prominent given its small scale, low height, traditional form, proportions, materials and detailing, the backdrop of established vegetation (and not just the whitebeam tree whose root protection area is in question), plus the fact that despite being positioned in front of Cedar House it would still be set back slightly from the façade of neighbouring property The Levons. Moreover, another outbuilding occupied a very similar position until recently.

6.2.3 The key issue, then, is whether potential damage to the whitebeam tree and omitting the previously agreed hedge planting would be harmful enough to warrant refusing planning permission.

6.2.4 Clearly the Council would not lightly condone the recent breach of the previously agreed tree protection plan, and it is noted that the Tree Officer recommends reinstating the ground to try and reinvigorate the tree rather than proceeding to build

the garage, despite the applicant's arboricultural consultant suggesting that no-dig construction would potentially avoid any further significant impact. However, it was accepted under the previous application that this is an individually unremarkable 'Category C' tree of low quality and with an expected lifespan of 10-20 years. Ultimately, therefore, it would be unlikely to merit a tree preservation order in the event of a Section 211 application to remove it, and under which there would similarly be no provision for compensatory planting.

6.2.5 It is recognised that the whitebeam does have group value in terms of extensive tree cover being a particular characteristic of this part of the conservation area, and acknowledged that in a recent appeal decision concerning development elsewhere along Hazler Road the Planning Inspectorate gave significant weight to that issue (ref. 21/02908/REF and associated planning application 20/02537/OUT). However, that was a larger-scale scheme for two new dwellings and would have directly involved removing a number of mature trees.

6.2.6 Officers also judge that the reduced hedgerow planting resulting from the slight reconfiguration of the site's entrance does not demonstrably harm the conservation area. This would always have been a short stretch of hedgerow set back behind visibility splays, and whilst the new entrance currently looks a little stark, its brick piers and stone walling are completed to a high standard, recessed behind vegetation on either side, and will soon weather.

6.2.7 Furthermore, this modest development in a suburban setting has no significant impact on the wider landscape.

6.2.8 Overall, therefore, and on balance, officers suggest that the above policies are satisfied, and find the scheme's visual, heritage and landscape effects acceptable.

6.3 **Access and highway safety**

6.3.1 Officers also acknowledge the consultee and public concerns about access and highway safety and concede that turning in the remaining space directly in front of the new house may be tight or unattractive to drivers who have parked in the proposed garage nearer the site entrance. However, there are many other properties along Hazler Road where cars must be reversed in or out, as is quite usual in residential areas.

6.3.2 The amended block plan confirms that the access retains 41-metre visibility splays in both directions and shows sufficient space for both the garage doors and the site entrance gates to be opened or closed simultaneously while cars stand on the access apron, clear of the road. Meanwhile there would still be two dedicated on-site parking spaces including the garage (plus room for many more cars along the driveway subject to them reversing in or out), which is considered sufficient given the location within walking distance of a train station and town centre services, and the lack of any specific parking standards in the Council's Local Plan policies.

6.4 **Impact on residential amenity**

6.4.1 The outbuilding would not result in significant overlooking or overshadowing, or appear overbearing, given its small scale and separation from the neighbouring

properties.

7.0 CONCLUSION

7.1 The development is acceptable in principle as it would be ancillary to the main house. The outbuilding itself, being small in scale and sympathetically designed, would not be unduly prominent, and whilst there are some implications for previously agreed tree protection and landscaping plans, on balance it is not considered that these would demonstrably harm the character and appearance of the conservation area or the wider landscape. Neither do officers anticipate significant highway safety or residential amenity impacts. Overall, therefore, the application is considered to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk management

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

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

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

8.2 Human rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

Relevant Planning Policies:

Central Government Guidance:

National Planning Policy Framework

Shropshire Local Development Framework:

Core Strategy Policies:

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS17 - Environmental Networks

SAMDev Plan Policies:

MD2 - Sustainable Design

MD12 - Natural Environment

MD13 - Historic Environment

Relevant Planning History:

18/01563/OUT – Erection of dwelling and garage; formation of access drive (outline application with matters of access, appearance, landscaping, layout and scale reserved) (permitted June 2018)

19/01833/REM – Approval of reserved details (access, appearance, landscaping, layout and scale) in pursuance of outline planning permission No. 18/01563/OUT (for erection of dwelling and garage, and formation of access drive) (withdrawn January 2020)

20/02813/REM – Approval of reserved matters (access, appearance, landscaping, layout and scale) in pursuance of outline planning permission No. 18/01563/OUT (for erection of dwelling and formation of vehicular access) (permitted November 2020)

21/00231/DIS – Discharge Conditions 2 (materials), 3 (roof detailing) and 4 (fenestration) of reserved matters approval No. 20/02813/REM (for erection of dwelling) (approved January 2021)

21/00745/DIS – Discharge Condition 4 (drainage) of planning permission No. 18/01563/OUT (for erection of dwelling and formation of access drive) (approved February 2021)

21/04722/DIS – Discharge Condition 4 (fenestration) of reserved matters approval No. 20/02813/REM (revised proposal following previous approval of application 21/00231/DIS) (approved October 2021)

11.0 ADDITIONAL INFORMATION

View details online: [21/01955/FUL | Erection of detached garage | Proposed Dwelling Adjacent The Levons Hazler Road Church Stretton Shropshire SY6 7AQ](#)

List of Background Papers:

Application documents available on Council website

Cabinet Member (Portfolio Holder):

Cllr Ed Potter

Local Members:

Cllr David Evans

Cllr Hilary Luff

Appendices:

Appendix 1 – Conditions and Informatives

APPENDIX 1 – CONDITIONS AND INFORMATIVES

STANDARD CONDITIONS

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

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

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

Reason: To define the consent and ensure a satisfactory development, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

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

3. No works in connection with the outbuilding hereby permitted, including further ground clearance or excavations, shall commence until there has been submitted to and approved in writing by the local planning authority a scheme to safeguard existing trees and hedges which are to be retained on the site and along its boundaries. This shall include:
 - a) A tree protection plan which reflects guidance in BS 5837:2012: 'Trees in relation to design, demolition and construction'
 - b) A fully detailed and task-specific arboricultural method statement for all works within agreed root protection areas as defined in (a), to include details of a 'no-dig' construction method for the outbuilding

All works shall be carried out in accordance with the approved details.

Reason: To safeguard retained trees and hedges in order to help preserve the character and appearance of the Church Stretton Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITIONS RELEVANT FOR LIFETIME OF DEVELOPMENT

4. The external materials of the outbuilding hereby permitted shall match in colour, form and texture those of the existing dwelling on the site.

Reason: To ensure that the development harmonises with the existing dwelling, and to help preserve the character and appearance of the Church Stretton Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

5. The outbuilding hereby permitted shall only be used for purposes in connection with and ancillary to the enjoyment of the existing dwelling on the site as a single dwelling unit. At no time shall any part be occupied as a separate dwelling, or used for commercial or business purposes beyond a level that is incidental to the primary residential use.

Reason: To help safeguard the residential amenities of the area, in accordance with Policies CS6 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy.

INFORMATIVES

1. Your attention is drawn specifically to Condition 3 above, which requires the Local Planning Authority's prior approval of further details. In accordance with Article 27 of the Town and Country Planning (Development Management Procedure) Order 2015, a fee (currently £116) is payable to the Local Planning Authority for each request to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority.

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

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

2. This planning permission does not authorise the applicant to:
 - construct any means of access over the publicly maintained highway (including any footway or verge);
 - carry out any works within the publicly maintained highway;
 - authorise the laying of private apparatus within the confines of the public highway, including any a new utility connection; or
 - disturb any ground or structures supporting or abutting the publicly maintained highway.

Before carrying out any such works the developer must obtain a licence from Shropshire Council's Street Works Team. For further details see <http://www.shropshire.gov.uk/roads-and-highways/developing-highways/>.

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

3. The applicant/developer is responsible for keeping the highway free from mud or other material arising from construction works.
4. If any vehicular access and/or parking/turning areas slope towards the public highway, surface water run-off should be intercepted and disposed of appropriately. It is not

permissible for surface water from the development to drain onto the public highway or into highway drains.

5. In order to control/attenuate surface water at source and avoid increasing the risk of flooding at the site or elsewhere, the use of sustainable drainage systems (SuDS) such as soakaways designed in accordance with BRE Digest 365, water butts, rainwater harvesting, permeable paving, attenuation and grey water recycling should be considered.
6. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework Paragraph 38.



Committee and date
 Southern Planning Committee
 28th June 2022

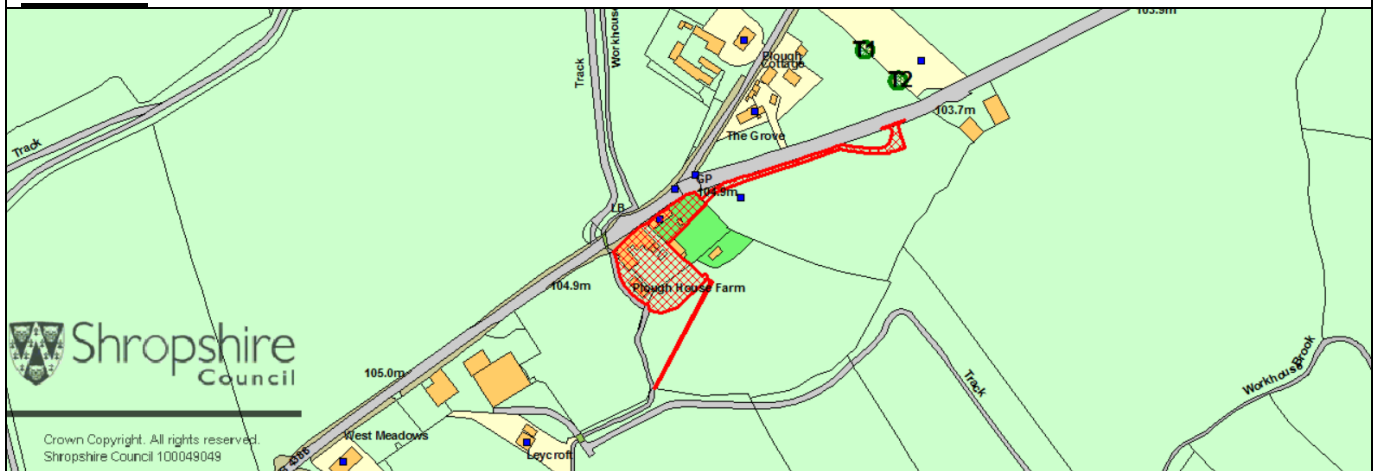
Development Management Report

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

Summary of Application

Application Number: 21/05713/FUL	Parish:	Worthen With Shelve
Proposal: Erection of replacement dwelling and installation of package (sewage) treatment plant		
Site Address: Plough House Farm, Little Worthen, Worthen, Shrewsbury, Shropshire, SY5 9HL		
Applicant: Mr P Jones		
Case Officer: Trystan Williams	email: trystan.williams@shropshire.gov.uk	

Grid Ref: 333281 - 305159



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks full planning permission to erect a replacement open-market dwelling, albeit with the existing dilapidated former farmhouse retained in an ancillary capacity as a bat roost and 'heritage asset'.
- 1.2 The replacement dwelling would be set back behind the existing house and would share a new vehicular access and driveway to the northeast with two brand new dwellings which already have outline planning permission (ref. 20/02366/OUT). It would have four bedrooms and 288m² total habitable space across two floors, including a cross-wing at the southwest end (incorporating a rear balcony, and with a catslide roof over a hall/stairwell/open porch in the angle at the front) plus a shallower gabled wing front-left. There would also be a single-storey 28m² car port attached to the northeast side. The building would have brick walls, a natural slate roof and extensive aluminium-framed glazing.
- 1.3 Some existing brick-built outbuildings would also be retained, but a concrete block wing and a metal Dutch barn alongside the southwest boundary would be demolished. An overgrown yard between the outbuildings and the new dwelling would be reconfigured slightly and resurfaced in pervious stone, whilst a new package treatment plant with discharge directly into an adjacent watercourse would be installed for foul drainage.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The hamlet of Little Worthen is located northeast of Worthen village in the Rea Valley, on the B4386 Shrewsbury – Montgomery road. Plough House is a disused farmstead directly fronting the road just southwest of a sharp bend and diagonally opposite a turning for Aston Rogers. The house dates from the 19th Century, has two storeys, approximately 180m² floor space, rendered brick walls and a gabled slate roof. There are currently vehicular accesses directly alongside each gable end, and the outbuildings/barns stand between the southwest entrance and a tree-lined stream which forms the site boundary in that direction. Further southwest, across a small field, are unrelated farm buildings and a few modern houses on the edge of Worthen village.
- 2.2 The proposed dwelling would be set back towards the site's rear (southeast) boundary with a field owned by the applicant. To the northeast, beyond a belt of immature trees and scrub, and extending along the hedged road frontage, is the site of the previously approved new dwellings and access drive, also still in the applicant's control. Opposite that but set back behind a paddock is a red brick house named 'The Grove', beyond which are further scattered dwellings of various types and styles plus some more approved building plots. The site area extends to 0.1 hectares including the retained buildings and new access drive.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 In accordance with the Council's adopted 'Scheme of Delegation', the application is referred to the planning committee for determination because the officer recommendation of approval is contrary to an objection from the Parish Council, and Shropshire Council's Planning and Development Services Manager, in

consultation with the Planning Committee Chairman and Local Member, agrees that material planning considerations have been raised and warrant consideration by the full committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee comments

4.1.1 Shropshire Council Flood and Water Management:

No flood modelling has been carried out for the watercourse along the site's southwest boundary, but it is known to have flooding problems. The Environment Agency's surface water flood mapping should therefore be used as an initial guide to the extent of the flood plain, with the low risk area assumed to equate to fluvial Flood Zone 2, the medium risk area to Flood Zone 3a, and the high risk area to Zone 3b. This would also include an allowance for climate change, although the developer may prefer to produce their own model to verify the likely extents of flooding.

4.1.2 Since the proposed dwelling would be classed as 'more vulnerable' development on land currently approximated to Flood Zone 3, a Flood Risk Assessment (FRA) should be submitted for approval before any planning permission is given. Besides assessing fluvial flooding this should also consider potential for surface water flooding from overland flows, groundwater flooding, flooding from artificial drainage systems or infrastructure failure (such as public sewers or blocked culverts), flood compensation storage, finished floor levels, flood evacuation and a proposed surface water drainage strategy. Full surface water and foul drainage details could potentially be secured by condition, however.

4.1.3 8/2/22 – comment:

A satisfactory FRA has now been submitted. Its recommended finished ground floor level (of 103.93m AOD) and flood mitigation measures should be reinforced through a further planning condition, alongside the drainage condition recommended previously.

4.1.4 Shropshire Council Historic Environment (Conservation) – comment:

Plough House Farm is noted in the Shropshire Historic Environment Record as part of the Historic Farmsteads Characterisation Project (2008-2010). It is described as a 19th Century farmhouse with an attached agricultural range with no apparent alteration. Additionally, the farmhouse is indicated as pub on 1st and 2nd edition Ordnance Survey mapping.

4.1.5 There is no specific objection to the proposed new dwelling from a conservation perspective. However, given the above, the existing dwelling and adjacent barn are potentially of historic interest, and whilst the plans show them retained they are in poor structural condition so without a sustainable long-term use could deteriorate further and become dangerous, especially given their roadside positions. It is therefore suggested that further clarification is sought regarding remedial and maintenance works to secure the farmhouse as a bat roost in perpetuity, and also the intentions for the adjacent barn.

4.1.6 Shropshire Council Ecology – comment:

The application includes a survey report by a licensed ecologist who recorded the

following within the existing house:

- A maternity roost of up to 27 lesser horseshoe bats within the roof void on 31st July 2021 (Surveys across the previous bat season also revealed similar numbers.)
- 11 hibernating lesser horseshoe bats within the cellar on 9th February 2021
- Droppings in various quantities throughout the house, indicating use of the whole structure as a roost

- 4.1.7 No evidence of bats or other protected/notable species was found in the other buildings on the site.
- 4.1.8 Given that the farmhouse is not proposed for demolition and would instead be retained as a dedicated space for bats, no disturbance of roosts is likely. However, in the event of a bat being found construction work must stop and either Natural England or a licensed ecologist should be contacted for advice on how to proceed. Any planning permission granted should include an 'informative' to this effect.
- 4.1.9 Since the National Planning Policy Framework (NPPF) and the Council's Core Strategy Policy CS17 require biodiversity net gains in connection with the development, conditions should require provision of bat boxes/tubes and bird boxes and secure a detailed landscaping scheme. Another condition should control any external lighting in order to avoid disturbing foraging or commuting bats, whilst an additional informative should advise on the statutory protection afforded to nesting birds.
- 4.1.10 Shropshire Council Highways Development Control – comment:
There is no objection to the proposed dwelling from a highway safety perspective. Using the previously approved new access to the northeast and closing the existing substandard entrances alongside the farmhouse would improve visibility for emerging vehicles.
- 4.1.11 A condition should ensure the new dwelling is not occupied until the new entrance and on-site parking/turning spaces are complete. Meanwhile informatives should advise on the need to avoid surface/waste water from the development discharging onto the road or into its drains, and on the requisite licence for works on or abutting highway land.
- 4.1.12 Shropshire Council Regulatory Services – no objection:
A neighbour has raised concerns about potential amenity issues resulting from the proximity of his farm [see below]. However, both the existing house and the proposed replacement would in fact be similar distances from the working farm buildings, land and manure storage areas, so there would be no increased impact on occupiers of the development.
- 4.1.13 Worthen with Shelve Parish Council – objection:
- Although Shropshire Council's Site Allocations and Management of Development (SAMDev) Plan designates Little Worthen a 'Community Cluster' settlement suitable for some new housing, the housing guideline for this Parish has already been significantly exceeded (106 dwellings approved vs target of 60, and another 30 still pending consideration). This further proposal therefore

brings Policy MD3 criteria for overprovision into play, especially as Little Worthen itself has already had a number of new homes approved.

- The Parish Council's preference is for no more than two new dwellings to be built in any one location. Since two have already been approved immediately alongside this site, this proposal would be overdevelopment.
- The site is not an infill plot by any definition, and the scheme would instead expand the settlement into open countryside.
- Little Worthen is set to lose its 'Cluster' status as part of the current Local Plan review.
- The Local Implementation Plan within the Parish Plan expresses a preference for smaller, more affordable homes with a maximum of three bedrooms.
- There are concerns regarding the structural stability and future use of the existing farmhouse and barns, as noted by Shropshire Council's Conservation Officer. Remedial works are necessary not only to safeguard the heritage asset (the property is of local interest as it was once a workhouse and workhouse master's cottage, before becoming a pub and later a farm), but also to avoid it collapsing into the road.
- Given its size and position, the new dwelling would have a detrimental visual impact on the open countryside and nearby Shropshire Hills Area of Outstanding Natural Beauty (AONB).
- Highway safety is a major concern given first-hand knowledge of traffic volumes and speeds in this location. The scheme would result in a third household using the same entrance/exit that was previously approved for just two new dwellings.
- Flood risk and remedial measures require further investigation.

4.2 Public comments

4.2.1 One neighbouring resident does not object per se, but comments as follows:

- The replacement dwelling would be closer to and within sight of neighbouring livestock buildings and manure storage areas. This may result in occupiers complaining about noise, odours or flies, and the farm business could become unviable if changes to its practices are required.
- Despite the Environment Agency's fluvial flood maps not showing the site as being within a flood plain, the adjacent brook in fact reacts extremely quickly to heavy rainfall and has twice overtopped embankments at a neighbouring property during the past three years. Addressing this by raising ground levels could exacerbate flooding elsewhere.
- Unless the existing farmhouse undergoes some form of remedial work it will only decay further, and could endanger adjacent road users on what is already a fast blind corner.

5.0 THE MAIN ISSUES

- Principle of development
- Layout, scale, design and impacts on heritage assets and wider landscape
- Residential amenity
- Flood risk and drainage
- Highway safety
- Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 It is agreed with the Parish Council that, despite the current SAMDev Plan designating Little Worthen (as distinct from Worthen village) part of a Community Cluster, this application would not fit the policy criteria for a brand new open-market dwelling because the site lies on the edge of the settlement rather than being an infill plot between existing buildings. However, officers consider that the existing farmhouse has not been intentionally abandoned as, although unoccupied since at least 2009, it has been made secure and remains largely intact. Therefore, its one-for-one replacement would not in fact further increase the total number of residential properties in the settlement or the wider Parish (although in any event the Council's recently updated Five Year Housing Land Supply Statement shows that there is still headroom within the housing guideline for this particular Cluster), and is fundamentally acceptable under policies applicable to replacement dwellings in the countryside.
- 6.1.2 On that basis it would be necessary to impose a condition effectively rescinding the independent residential status of the existing house by restricting it to ancillary use (as a bat roost and for storage etc.) in connection with the new dwelling. Whilst this would not preclude a future application to remove that condition and reinstate the building as a separate dwelling again, any such proposal would need to be considered on its own merits at the time, and certainly the current evidence (including an outline schedule of works and costings submitted by the applicant's agent) suggests restoration would be financially unviable. A similar restriction could be applied to the adjacent barns, or their established agricultural use could remain.
- 6.1.3 This raises the question of whether the Council should at least seek to protect the existing buildings against further deterioration. Ultimately, however, attempting to use the planning system to secure this would be difficult and perhaps inappropriate, as there are separate controls and sanctions on dangerous structures under the Building Regulations and highways legislation, for instance.
- 6.1.4 Overall, therefore, and on balance, officers suggest the proposal is acceptable in principle even with the existing dwelling retained as a shell.

6.2 Layout, scale, design and impacts on heritage assets and wider landscape

- 6.2.1 SAMDev Policy MD7a says "Replacement dwellings should not be materially larger and must occupy the same footprint unless it can be demonstrated why this should not be the case". Similarly, the 'Type and Affordability of Housing' Supplementary Planning Document requires the replacement to be sympathetic to the size, mass character and appearance of the original property and its surroundings, and ordinarily to be sited in the same position. Additionally, where development would affect non-designated heritage assets the National Planning Policy Framework (NPPF) and SAMDev Policy MD13 require a balanced judgement, taking into account the level of the assets' significance, the scale of any harm or loss, and any public benefits of the scheme.
- 6.2.2 In this case the new dwelling's alternative position would avoid demolishing the existing house, and hence the immediate loss of a non-designated heritage asset and destruction of a known bat roost. Although restoring or at least maintaining it may be preferable for its long-term conservation, as explained above this cannot be

guaranteed through planning legislation, and ultimately the Council must determine the current proposal as it stands. In any event, even if the existing dwelling was proposed for demolition, rebuilding on the exact same footprint would be inadvisable for highway safety and residential amenity reasons, given the proximity of the road.

6.2.3 It is also acknowledged that the scale of the replacement dwelling would be considerable, with around 60% more habitable floor space. Nevertheless, it is not considered disproportionate to the existing house or the size of the plot, especially bearing in mind that a large extension could potentially be added under 'permitted development' rights, and that the proposed scheme would also consolidate the various outbuildings. With reference to the Parish Council's comments, no formally adopted Local Plan policies contain any specific restriction on the number of bedrooms in new dwellings in this location, and moreover, despite its condition, the existing property is itself likely to command a relatively high value unobtainable to those in greatest housing need.

6.2.4 The proposed design is considered acceptable, with its form and proportions being reasonably traditional and breaking up the overall bulk and massing, and the facing materials also of the vernacular. The courtyard arrangement would maintain something of the agricultural context, and it is noted that the Conservation Officer raises no objection in terms of the historic buildings' setting. Furthermore, being set back from the road behind the existing buildings, on relatively low-lying ground and with the established tree cover on either side, the development should not prove unduly prominent in the wider landscape.

6.2.5 Any permission given should, however, be subject conditions requiring precise landscaping details, and (as Policy MD7a specifically requires in the case of larger replacement dwellings) removing permitted development rights.

6.3 **Residential amenity**

6.3.1 The new dwelling would in fact be around 80 metres from manure stores and 95 metres from livestock buildings at the neighbouring farm to the southwest, which is some 20 metres closer than the existing house. However, as summarised above the Council's Regulatory Services Team advises that this is unlikely to significantly compromise residential amenity for the development's occupiers.

6.3.2 The new dwelling would also have sufficient outdoor amenity space, whilst its separation from the existing and previously approved new dwellings to the northeast would avoid significant overlooking or any overbearing effect.

6.4 **Flood risk and drainage**

6.4.1 Part 14 of the NPPF seeks to steer new development to areas with the lowest probability of flooding, generally requiring a sequential approach whereby development is only approved on land with a higher flood risk if there are no reasonably available locations with a lower risk, and provided an 'exception test' can also be satisfied by:

- demonstrating that the development would provide wider sustainability benefits which would outweigh the risk of flooding; and
- showing through a site-specific FRA that the development would be safe for its lifetime taking into account the vulnerability classification of its use, and would

not increase flood risk elsewhere.

6.4.2 In this case the detailed FRA now submitted argues that the sequential and exception tests are satisfied since the site is technically in fluvial Flood Zone 1, and because (even having regard to the Flood and Water Management Team's comments regarding the use of pluvial flood zones, despite that approach not being clearly defined in the Council's strategic FRA) the scheme would replace an existing dwelling. It also concludes that the development would be safe for its lifetime and would not increase flood risk elsewhere, subject to appropriate mitigation including raised floor levels or incorporating water exclusion/flood resilience measures, provision of compensatory floodplain storage, and use of sustainable drainage systems. Since a range of options are outlined, precise details would need to be secured by condition to ensure enforceability.

6.5 Highway safety

6.5.1 The new access previously approved in conjunction with the adjacent residential development to the northeast was designed from the outset to serve the existing farmhouse as well – indeed a condition of that permission requires the existing highly substandard farm entrances to be closed. Consequently, a replacement dwelling using the same arrangement would achieve the same highway safety betterment, as the Highways Development Control Team's comments confirm. To avoid any doubt, however, all previous highways-related conditions should be repeated on any new permission.

6.5.2 Although demolishing the existing house would remove any risk of debris falling into the road and improve visibility around the corner, again it is emphasised that this cannot legitimately be insisted upon as part of this planning application.

6.6 Ecology

6.6.1 The Habitats Regulations require strict protection of certain species and their habitats, including all UK bat species. Disturbance or destruction of breeding sites or resting places is allowed only in the interests of public health and safety or for other imperative reasons of overriding public interest, and provided there is no satisfactory alternative, and no detriment to maintaining the species' populations at a favourable conservation status within their natural range. These three 'tests' would need to be passed in order to secure the requisite protected species mitigation licence from Natural England.

6.6.2 The current proposals do not require additional survey work or a licence since the bat roost within the existing house would remain undisturbed. Whilst it may be speculated that a licence could potentially be obtained on safety grounds, again this is beyond the remit of the current application. Instead the Ecology Team is satisfied that conditions securing ecological enhancements, together with informatives advising on protected species legislation, will suffice.

7.0 CONCLUSION

7.1 Despite the location on the edge of the settlement, and the proposal to retain the existing dilapidated house in an ancillary capacity, the scheme is considered acceptable in principle on the basis of a one-for-one replacement dwelling. The conservation and ecological value of the existing house helps justify the alternative

position for the new dwelling, but in any event that would likely be acceptable on residential amenity and highway safety grounds. Its additional size is also acceptable given the scale of the existing dwelling and its associated outbuildings, the generous plot size, the satisfactory massing and design of the new house, and its reasonably discreet situation within the wider landscape. Moreover there are no significant or insurmountable concerns regarding residential amenity, flood risk, vehicular access or ecology. Overall, therefore, and on balance, the application is felt to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk management

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

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

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

8.2 Human rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

Relevant Planning Policies:

Central Government Guidance:

National Planning Policy Framework

Shropshire Local Development Framework:

Core Strategy Policies:

CS1 - Strategic Approach
CS4 - Community Hubs and Community Clusters
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS7 - Communications and Transport
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management

SAMDev Plan Policies:

MD1 - Scale and Distribution of Development
MD2 - Sustainable Design
MD3 - Managing Housing Development
MD7A - Managing Housing Development in the Countryside
MD12 - Natural Environment
MD13 - Historic Environment
S2 - Bishop's Castle Area Settlement Policy

Supplementary Planning Documents:

Type and Affordability of Housing

Relevant Planning History:

20/02366/OUT – Erection of two detached dwellings and garages, installation of package (sewage) treatment plant, and formation of new vehicular access (outline application to include means of access, but with matters of appearance, landscaping, layout and scale reserved) (permitted March 2021)

11.0 ADDITIONAL INFORMATION

View details online: [21/05713/FUL | Erection of replacement dwelling and installation of package \(sewage\) treatment plant | Plough House Farm Little Worthen Worthen Shrewsbury Shropshire SY5 9HL](#)

List of Background Papers:

Application documents available on Council website

Cabinet Member (Portfolio Holder):

Cllr Ed Potter

Local Member:

Cllr Heather Kidd

Appendices:

Appendix 1 – Conditions and Informatives

APPENDIX 1 – CONDITIONS AND INFORMATIVES

STANDARD CONDITIONS

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

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

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

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

CONDITIONS THAT REQUIRE APPROVAL BEFORE DEVELOPMENT COMMENCES

3. No development shall commence until precise details of the means of surface water and foul drainage have been submitted to and approved in writing by the Local Planning Authority. These shall include:
 - Percolation test results and sizing calculations for any surface water soakaways, to accord with BRE Digest 365
 - Provision for installation of a silt trap or catch pit upstream of the drainage field
 - Details of other/alternative sustainable drainage systems (SuDS)/attenuation measures as appropriate, to include measures to avoid run-off onto adjacent land and highways
 - Sizing calculations and a specification for the proposed new package treatment plant
 - Percolation test results and sizing calculations for any foul water drainage field, or precise details of any alternative means of discharge
 - A detailed drainage layout plan

The approved scheme(s) shall be implemented in full prior to the first use/occupation of the development and shall thereafter be retained thereafter.

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

4. No development shall commence until precise details of the following, broadly as indicated in the submitted Flood Risk Assessment by Geosmart Information (referenced 76196R1 and dated 4th February 2022), have been submitted to and approved in writing by the local planning authority:
 - compensatory floodplain storage to be provided at or adjacent to the site; and

- confirmation of a minimum finished ground floor level of 103.93m within the new dwelling; or
- in the event of the above minimum finished floor level proving unachievable, precise details of an alternative water exclusion strategy using appropriate avoidance and resistance measures, combined with flood resilience measures.

The development shall be carried out in accordance with the agreed details, and shall thereafter be retained in that condition for its lifetime.

Reason: To protect the development and its users against flood risk, and to avoid causing or exacerbating flooding elsewhere, in accordance with Policies CS6, CS17 and CS18 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

5. No development shall commence until there has been submitted to and approved in writing by the Local Planning Authority a detailed scheme of landscaping. This shall include:
- Identification of all existing trees and hedgerows on the site and along its boundaries
 - Identification of and measures to protect existing trees and hedgerows which are to be retained
 - Details/schedules of proposed planting
 - Details of the type and height of any fences, railings, walls and other boundary treatments/means of enclosure
 - Details/samples of hard surfacing materials
 - Timetables for implementation

The works shall be completed in accordance with the approved details and, in the case of fences, walls, hardstandings and other hard landscaping works, retained thereafter. In the case of soft landscaping, any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with others of similar size and species.

Reason: To ensure that the external appearance of the development is satisfactory, and to help safeguard the visual amenity of the surrounding countryside, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

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

6. Except for demolition works and works to form the new vehicular access to the site, no above-ground development shall commence until samples/precise details of all external materials and finishes have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with approved details.

Reason: To ensure that the external appearance of the development is satisfactory, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

7. Prior to the first use or occupation of the new dwelling hereby permitted, the following shall be provided at the site in accordance with precise details which shall first be submitted to and approved in writing by the local planning authority:
- a minimum of two external Woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting by small crevice-dwelling UK bat species; and
 - a minimum of two artificial 'nests', of either integrated brick or external box design, suitable for swifts (i.e. purpose-made swift bricks or boxes with entrance holes to larger than 65 x 28mm), starlings (i.e. 42mm entrance hole, starling-specific design), sparrows (32mm hole, terrace design) and/or house martins (house martin nesting cups)

These shall be retained for the lifetime of the development.

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

CONDITIONS RELEVANT FOR LIFETIME OF DEVELOPMENT

8. Prior to the first occupation of the new dwelling hereby permitted, the new vehicular access shall be fully laid out and surfaced in accordance with the approved block plan and the details agreed under Condition 5 above. This shall include provision of 113-metre visibility splays in both directions along the nearest edge of the adjacent highway carriageway, measured from a point 2.4 metres back from that edge down the centre line of the proposed access, and which shall thereafter be maintained clear of any obstructions higher than 0.9 metres above ground level for the lifetime of the development.

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

9. Prior to the first occupation of the new dwelling hereby permitted, the two existing vehicular accesses to the site shall be permanently stopped up in accordance with the landscaping details agreed under Condition 5 above.

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

10. The existing dwelling on the site, labelled 'Bat House' on the approved block plan, shall only be used for purposes in connection with and ancillary to the enjoyment of the new dwelling hereby approved as a single dwelling unit, and shall at no time be occupied as a separate independent dwelling or used for commercial or business purposes.

Reason: To define the consent, avoid establishment of an additional open-market dwelling in the open countryside, and in the interests of residential amenity, in

accordance with Policies CS5, CS6 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy.

11. The existing outbuildings shown to be retained on the approved block plan shall only be used for:
- i) the purposes of agriculture as defined by Section 336(1) of the Town and Country Planning Act 1990; and/or
 - ii) purposes in connection with and ancillary to the enjoyment of the new dwelling hereby permitted as a single dwelling unit.

At no time shall any part be occupied as a separate independent dwelling, or used for commercial or business purposes except in accordance with i) above.

Reason: To define the consent, avoid establishment of an additional open-market dwellings without further consideration of relevant planning issues, and in the interests of residential amenity, in accordance with Policies CS5, CS6 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy.

12. Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order modifying, revoking or re-enacting that Order), no extension, garage, car port or other building/structure shall be erected or installed within the curtilage of the dwelling hereby permitted without planning permission first having been obtained from the Local Planning Authority.

Reason: To ensure that the development remains in scale and character with the original dwelling and its surroundings, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy, and Policy MD7a of the Shropshire Council Site Allocations and Management of Development Plan.

13. No external lighting shall be installed or provided at the site other than in strict accordance with a detailed scheme which shall first be submitted to and approved in writing by the local planning authority. This shall be designed so as to take into account the guidance contained in the Bat Conservation Trust document 'Bats and Lighting in the UK'.

Reason: To minimise potential disturbance to foraging or commuting bats, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

INFORMATIVES

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

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

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

2. This development may be liable to a payment under the Community Infrastructure Levy (CIL) which was introduced by Shropshire Council with effect from 1st January 2012. For further information please contact the Council's CIL team (cil@shropshire.gov.uk).
3. This planning permission does not authorise the applicant to:
 - construct any means of access over the publicly maintained highway (including any footway or verge);
 - carry out any works within the publicly maintained highway;
 - authorise the laying of private apparatus within the confines of the public highway, including any a new utility connection; or
 - disturb any ground or structures supporting or abutting the publicly maintained highway.

Before carrying out any such works the developer must obtain a licence from Shropshire Council's Street Works Team. For further details see <http://www.shropshire.gov.uk/roads-and-highways/developing-highways/>.

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

4. The applicant/developer is responsible for keeping the highway free from mud or other material arising from construction works.
5. If any vehicular access and/or parking/turning areas slope towards the public highway, surface water run-off should be intercepted and disposed of appropriately. It is not permissible for surface water from the development to drain onto the public highway or into highway drains.
6. All species of bat found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). Should a bat be discovered on site at any point during the course of development work must halt and Natural England should be contacted for advice.
7. Active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks or on which fledged chicks are still dependent. If possible all demolition, clearance and/or conversion work associated with the approved scheme should be carried out outside the nesting season, which runs from March to September inclusive. If it is necessary for work to commence during the nesting season a pre-commencement inspection of buildings and

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

8. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework Paragraph 38.

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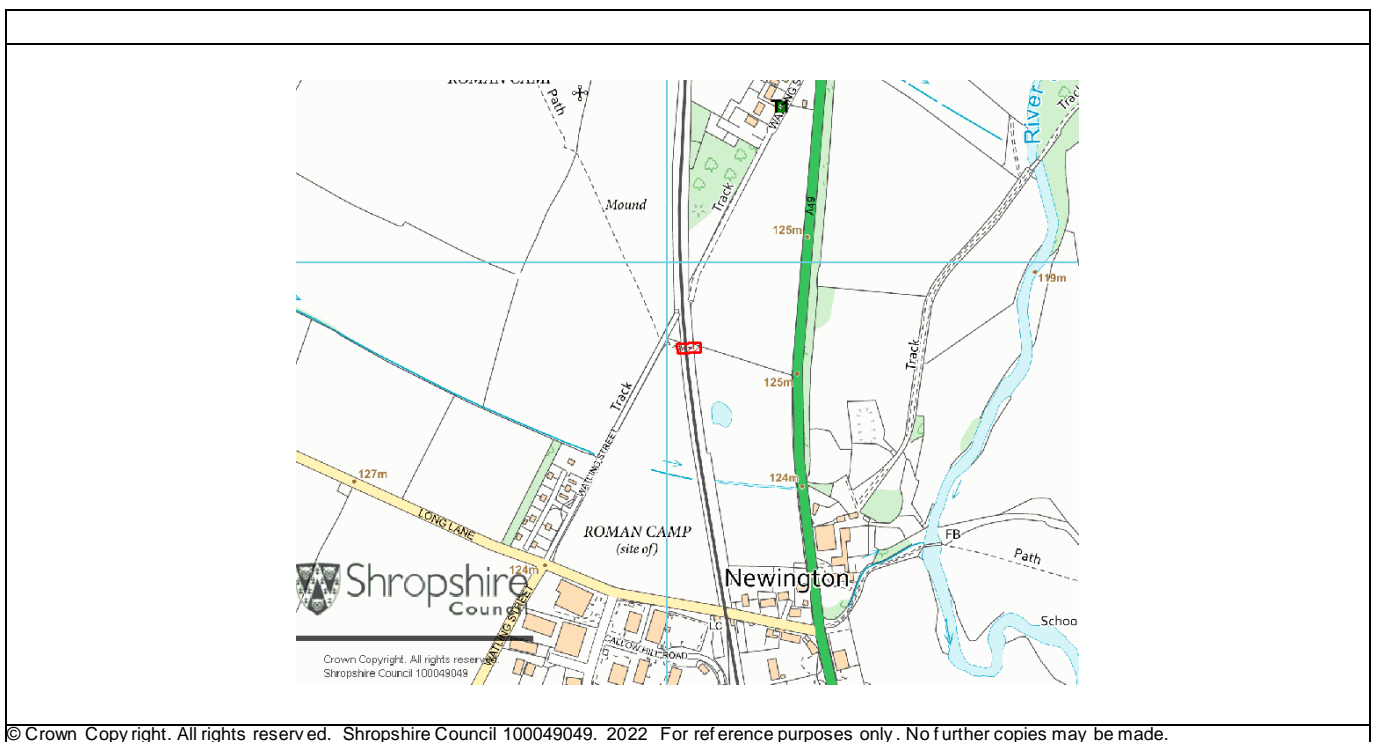
Committee and date
 Southern Planning Committee
 28th June 2022

Development Management Report

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

Summary of Application

Application Number: 22/00157/MISC18	Parish:	Wistanstow
Proposal: Application for Prior Approval under Part 18, Class A of the Town and Country Planning (General Permitted Development (England) Order 2015 for the construction of a footbridge.		
Site Address: Proposed Footbridge North Of Newington Craven Arms Shropshire		
Applicant: Network Rail		
Case Officer: Kelvin Hall	email	kelvin.hall@shropshire.gov.uk



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Recommendation:- Grant Prior Approval

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks the prior approval of the local planning authority to the detailed plans and specifications of a proposed railway footbridge on land to the north of Craven Arms. The application is submitted under the requirements of Class A of Part 18 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 1.2 The proposed footbridge would provide pedestrian access across the three-track railway, and provide vertical and horizontal clearance to satisfy signal sighting, possible future electrification and derailment. The bridge would be fabricated from composite materials. The supports would include piers constructed of glass fibre reinforced polymer (GFRP). Network Rail advise that this type of design requires minimal maintenance, and has increased durability and greater sustainability compared to more traditional options.
- 1.3 The bridge would measure approximately 27 metres from west to east, with a height of approximately 6.2 metres to the base of the soffit and 7.5 metres to the top of the parapet.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located approximately 300 metres to the north of the edge of Craven Arms at a level crossing on the Shrewsbury – Hereford railway line. This crossing point connects public footpath 0565/50/3 to the east to public footpath 0565/50/1 to the west. Surrounding land is in agricultural use.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The objections raised by the Local Member and Parish Council are based upon material reasons and it has been agreed at the agenda-setting meeting that it is appropriate for the application to be considered by Planning Committee.

4.0 Community Representations

4.1 - Consultee Comments

- 4.1.1 **Wistanstow Parish Council and Craven Arms Town Council** Wistanstow Parish Council and Craven Arms Town Council has considered the proposals and the latest rendered visuals of what the bridge would look like on the site.

Although there are concerns about safety it is important to note that the footway has been subject to temporary closure since 2017 with the diversionary route being along Long Lane which for 500m has an appropriate footpath, consideration could also be given to approaching the owner of the fields to see if a shorter diversion could be implemented onto the field immediately past the level Crossing

situated in Long Lane.

Although accepting that this is a new initiative both Councils are of the opinion that the proposed bridge is not acceptable for this location and wish to object to the proposal:

The development would be a conspicuous feature in this countryside location and would detrimentally affect the essentially open character looking across areas of the Shropshire Hills Area of Outstanding Natural Beauty. The development is therefore contrary to the aims of the National Planning Policy Framework and to the requirements of Core Strategy policies CS5

4.1.2 **SC Archaeology** Recommends a condition.

The proposed development site is located within the extent of Craven Arms Marching Camp C (HER PRN 02041) and immediately adjacent to the Roman road of Watling Street, West of Wroxeter (HER PRN 00108). A number of other Roman military and settlement sites are located within the area. Also in close proximity are the prehistoric remains of a Scheduled Bowl barrow 120m south west of Belair (National Ref: 1010319), another possible Bronze Age ring ditch (HER PRN 35039), and a possible Neolithic mortuary enclosure (HER PRN 29718) that all lie within the extent of the marching camp. Whilst the railway line may have caused some previous disturbance, given the density of prehistoric and Roman activity in this area, the proposed development site is considered to have moderate to high archaeological potential.

RECOMMENDATION:

In view of the above we recommend that a programme of archaeological work be made a condition of any prior approval for the proposed development to comprise a watching brief on all ground disturbing works.

An appropriate condition of any such consent would be:

No development approved by this permission shall commence until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works. Reason: The site is known to hold archaeological interest.

4.1.3 **SC Rights of Way** No response received.

4.2 **-Public representations**

4.2.1 **Councillor David Evans (Local Member for Church Stretton and Craven Arms)**

Objection. The reason for my objection is because of the backdrop of the ANOB it will be intrusive on the landscape. Also the avenue of Oak Trees along the A49 north bound this would have an impact on the area. It would stand very high and then we would have 6ft of glass on top of the construction. Not suitable for this area.

4.2.2 Representation from a Wistanstow Parish Council Councillor:

- Supports the location and design of the footbridge
- the current diversion along the 'Watling Street' lane is inappropriate;
- current state has been report and do not consider that Shropshire Council will ever be able to commit the considerable resources needed to clean up the mess and maintain the 'path' in an appropriate condition for walkers, children and dogs on an on-going basis
- alternative diversion across the field parallel to the railway track to where it meets the level crossing on Long Lane is unworkable
- would require a Definitive Map Modification Order which can be a very lengthy and potentially costly exercise, particularly if it goes to a Public Inquiry
- footbridge is appropriate for an area that is earmarked for 'economic development'
- although within sight of the AONB, the area is already the location for a variety of 'semi-industrial' buildings and would not 'injure the amenity of the neighbourhood'
- being a critical feature of Footpath 50, the footbridge could not 'reasonably be carried out elsewhere on the land', and neither would it need to be moved if and when further development takes place
- Network Rail have built the bridge as an R&D project, and they are ready and able to site and maintain it
- NR is a 'not for profit' body regulated by the Office for Road and Rail no less, and turned over £6.5billion last year; don't think we need to concern ourselves with how they spend public money
- notion that the footbridge will become a 'magnet' for trainspotters impacting on the road traffic using the local lanes has I believe been exaggerated; unlikely that - even it were possible - they will try to park on the lane 3/4 fields from the footbridge

5.0 THE MAIN ISSUES

- 5.1
 - Prior approval requirement
 - Relevant considerations

6.0 OFFICER APPRAISAL**6.1 Prior approval requirement**6.1.1 Permitted development considerations

The request for prior approval has been submitted under the provisions of Class A of Part 18 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO). Part 18 relates to 'Miscellaneous development' and Class A states that, subject to conditions, the following works are 'permitted development':

A. Development authorised by—

(a) a local or private Act of Parliament,

(b) an order approved by both Houses of Parliament, or

(c) an order under section 14 or 16 of the Harbours Act 1964 (orders for securing

harbour efficiency etc, and orders conferring powers for improvement, construction etc of harbours), which designates specifically the nature of the development authorised and the land upon which it may be carried out.

6.1.2 Network Rail have advised that the provision of bridges is authorised by a combination of 'The Hereford, Ross and Gloucester Railway Act 1851' and 'The Railways Clauses Consolidation Act 1845'. Based upon the background information provided by Network Rail it is considered that the proposed works fall within Class A of Part 18 of the GPDO. In effect, the principle of the provision of this bridge is established under the above Acts, and the GPDO states that it is 'permitted development' subject to conditions. These conditions are explained below.

6.1.3 Conditions

Condition A.1 of Class A states that the erection of any bridge (in addition to other specified structures) is not permitted "unless the prior approval of the appropriate authority to the detailed plans and specifications is first obtained".

6.1.4 Condition A.2 sets out the extent of matters which may be considered as part of this prior approval process. It states:

"The prior approval referred to in paragraph A.1 is not to be refused by the appropriate authority nor are conditions to be imposed unless they are satisfied that—

- (a) the development (other than the provision of or works carried out to a dam) ought to be and could reasonably be carried out elsewhere on the land; or*
- (b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury".*

6.1.5 These two considerations are discussed below.

6.2 **Relevant considerations**

6.2.1 Whether the development ought to be and could reasonably be carried out elsewhere on the land [A.2(a)]

Network Rail has advised that the structure is required for the ongoing safe operation of the level crossing and railway infrastructure and therefore the work cannot be carried out elsewhere on land owned by Network Rail. The company state that they are running a national campaign to improve safety at level crossings and part of this involves removing the risk to members of the public coming into contact with high-speed trains through the diversion or closure of level crossings. Network Rail has advised that this particular level crossing at Wistanstow carries the highest risk of any footpath level crossing within the Wales and Borders route.

6.2.2 The footbridge would span the railway close to the point of the existing level crossing, and would therefore provide a safer method for pedestrians to cross the line at a similar point. There would be a need to formally divert a small section of the footpaths, so that they link to the base of the steps either side of the bridge,

and this is being progressed by Network Rail under the Highways Act as a separate process. This diversion would appear to be the minimal necessary to maintain footpath connectivity. Were the footbridge to be located elsewhere then this would necessarily involve a longer, more significant footpath diversion.

6.2.3 As the bridge is intended to provide a safer crossing point for pedestrians it is appropriate in principle for it to be located at the point proposed as this is where the public rights of way meet the railway line. Issues raised by the Council's Archaeology team regarding the moderate to high archaeological potential of the site can be satisfactorily addressed through the imposition of the condition recommended.

6.2.4 Overall, officers do not consider that the footbridge ought to be located elsewhere to perform its stated purpose, or that it could reasonably meet its purpose by being located elsewhere.

6.2.5 Whether the design or external appearance of the bridge would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury [A.2(b)]

Two of the visualisations provided by Network Rail are below.





- 6.2.6 It is understood that the height of the bridge is largely dictated by specific safety and technical requirements, as referred to above. This site lies outside of the main built-up area of Craven Arms. Existing trees and hedgerow in the area would break up views of the structure, however it would clearly be a noticeable addition to the local landscape and would change its character. The bridge would be visible in the context of the adjacent railway and as such would not be a totally alien feature.
- 6.2.7 The bridge would be visible from parts of the Shropshire Hills Area of Outstanding Natural Beauty (AONB), the nearest part of which is approximately 860 metres to the north-west. The NPPF requires that great weight is given to conserving and enhancing landscape and scenic beauty of AONB's. Land to the west, including that within the AONB, rises and this would provide further opportunities for views of the bridge. Nevertheless the local planning authority is required to limit consideration to whether the design or external appearance of the bridge would be injurious to the amenity of the area. Officers accept that the provision of the bridge at this location would result in some change to the character of the local area. However it is considered that the design is modern and aesthetically pleasing, particularly compared to more standardised styles of footbridge. Given its design, appearance, siting and nature, it is not considered that this would injure the amenity of the neighbourhood.
- 6.2.8 It should be noted that land either side of the railway line at the crossing point is allocated for employment in the adopted SAMDev Plan, The field to the east comprises a 2.5 hectares parcel of land which is allocated for offices, industrial and warehousing development (ref. ELR055) The field to the west forms a 3.5 hectares parcel of land which is allocated as a 'committee urban employment site' in the SAMDev Plan, which states that it is a site "committed for employment uses which is capable of accommodating the development of recycling and environmental industries". These two allocations are also proposed to be saved under the draft Local Plan which has been submitted for examination.
- 6.2.9 The development of these two parcels for the allocated purposes would be subject

to planning permission being first obtained. Nevertheless it is the objective of the Council's Development Plan that this land is developed for employment uses. It is not considered that there is incompatibility between the potential development of this land and the provision of the footbridge. It is considered that there may be benefits in terms of improving connectivity between the two parcels. Additionally, the visual character of the area would inevitably change as a result of the employment development.

7.0 CONCLUSION

7.1 The proposal seeks the prior approval of the local planning authority of the detailed plans and specification of a footbridge to be erected at the level crossing north of Craven Arms near Wistanstow. Under the terms of the relevant 'permitted development' Order, this prior approval cannot be refused unless the planning authority is satisfied that:

- a) the development (other than the provision of or works carried out to a dam) ought to be and could reasonably be carried out elsewhere on the land; or
- (b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury".

7.2 These are the only reasons why the planning authority's approval should be withheld.

7.3 Based upon the assessment above it is not considered that there is any other location that is more suited to the provision of the footbridge; or that the amenity of the area would be injured due to its design or external appearance. Consequently, no modification of its specification is required. On this basis, it is considered that the prior approval of the local planning authority to the design and specification of the footbridge should be granted, subject to a condition relating to archaeological matters.

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.

10.0 Additional Information

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 Members

Cllr David Evans

Cllr Hilary Luff

Appendices

APPENDIX 1 - Conditions

APPENDIX 1 - Conditions

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

No development approved by this permission shall commence until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

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Committee and date
 Southern Planning Committee
 28th June 2022

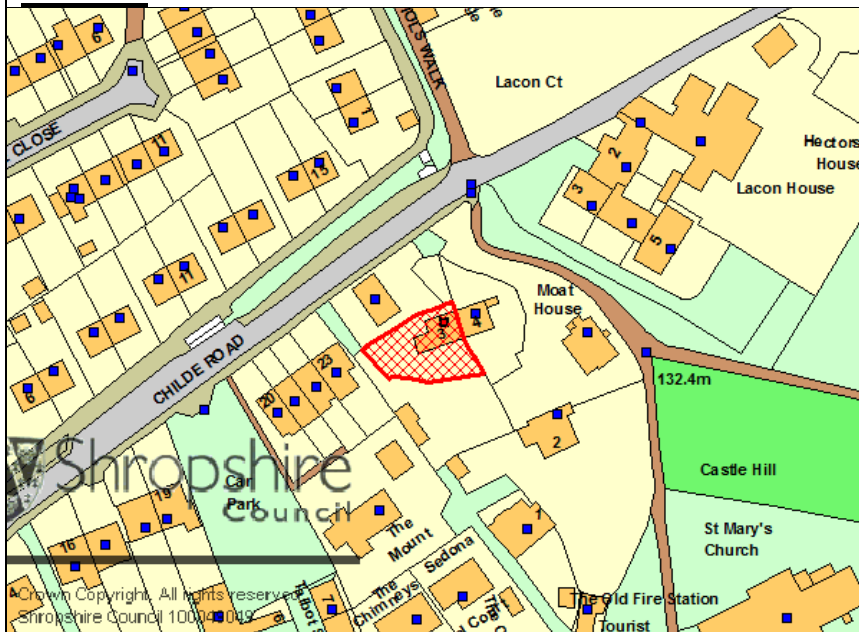
Development Management Report

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

Summary of Application

Application Number: 22/01523/FUL	Parish:	Cleobury Mortimer Town Council
Proposal: Erection of two storey side extension		
Site Address: 3 Castle Hill Cleobury Mortimer Kidderminster Shropshire DY14 8DA		
Applicant: Mrs C Lane		
Case Officer: Elizabeth Griffiths	email	: elizabeth.griffiths@shropshire.gov.uk

Grid Ref: 367324 - 275859



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

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks full planning permission for the erection of a 2-storey side extension and porch to 3 Castle Hill, Cleobury Mortimer.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 3 Castle Hill is a semi-detached dwelling located close to the centre of Cleobury Mortimer. The property is brick built under a clay tiled roof. The current property has a catslide roof to the north elevation which faces the main road. This semi-detached property hidden from the roadside by Fosse Cottage that sits to the north of the application site. Residential properties also sit to the south and west of the site. The land to the south slopes steeply down away from the site. The site is situated to the edge of the town's Conservation Area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The applicant works within the Historic Environment department of Shropshire Council. This triggers an automatic referral of the application to planning committee.

4.0 Community Representations

4.1 Consultee Comment

- 4.1.1 Cleobury Mortimer Town Council – No objection to the proposals it feels that a detailed archaeological report is important due to the historical significance of the site.

- 4.1.2 Shropshire Council Drainage - No objection, recommended informative

- 4.1.3 Shropshire Council Historic Environment - Comments

In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, policies MD2 and MD13 of the Site Allocations and Management of Development (SAMDev), the National Planning Policy Framework (NPPF) published July 2021, Planning Practice Guidance and Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

The application proposes the erection of two storey side extension at this property known as 3 Castle Hill, Cleobury Mortimer. The site lies within the Cleobury Mortimer conservation area. In terms of the overall scale of the proposed extension it is considered to be acceptable in this instance, the extension is well stepped down from the main roof line and stepped in from both elevations, both of which help with the subservience of the extension. It is also substantially less than the previously approved two storey extension: 11/01154/FUL and SS/1/07/20089/F. In terms of the impact upon the wider conservation area it is noted that the property is

well set back from the road and not readily visible in the street scene. The proposal would generally preserve the character and appearance of the conservation area in this instance and therefore the proposal is considered to accord with policies, guidance and legislation as outlined above from a conservation perspective.

4.1.4 Shropshire Council Archaeology

The proposed development site is located within the medieval urban form of Cleobury Mortimer (PRN 05478) as defined by the Central Marches Historic Towns Survey, the presumed extent of Cleobury Mortimer Castle (PRN 03248), a group of tenement plots of post medieval date (PRN 05490) and adjacent to part of the medieval street system of Cleobury Mortimer (PRN 05477) and a holloway along Childe Street (PRN 06204).

Previous observations in 2003 in relation to the existing extension to be demolished, found a layer of 19th century garden soils to a depth of 0.5m below ground level, beneath which was a layer of cobbles and charcoal overlying a reddish soil which yielded a number of clay pipes dated to c.1660-1720 and several sherds of medieval pottery. This is thought to relate to the late 18th century destruction of a dwelling house located in the vicinity, and the subsequent landscaping of the castle site at this time. Monitoring of excavations in 2017, immediately to the northwest of the site, found no significant archaeological features or layers, with topsoil and modern made ground found to a depth of 0.5m, overlying natural.

We understand that the proposed extension will use pile foundations, with excavations required to a maximum depth of 0.45m below ground level. Therefore, the archaeological impact is likely to be limited to the 19th century and later garden soils. In addition, the existing extension will have caused some previous ground disturbance, although it is noted that the current proposals do extend beyond the current footprint of the existing extension. The proposed development site is therefore deemed to have low archaeological potential.

In view of the above and in accordance with the National Planning Policy Framework (NPPF) and Policy MD13 of the SAMDev component of the Shropshire Local Plan, it is recommended that an archaeological inspection be made a condition of any planning permission for the proposed development.

4.1.5 Shropshire Council Ecology have indicated that standing advice can be used for the planning officer to select appropriate informatives regarding wildlife.

objection removed 01/06/22

I've checked this application for Ecology – due to the age and type of building and the nature of the proposed works it meets the criteria for requiring a Preliminary Roost Assessment. I have looked at the roof photos provided but they do not provide enough evidence to say with certainty that a bat roost assessment would not be required.

Bats

On review of the site photographs and plans this application appears to meet the trigger point for requiring a bat survey in accordance within the 2016 Bat

Conservation Trust; Good Practice Guidelines, since the works will involve the modification of existing roof structures.

The bat survey should be carried out as follows:

A Phase 1 Preliminary Roost Assessment is to be carried out on the trees and buildings that are to be affected by the proposed works. The survey shall include a thorough internal and external inspection of the building and an assessment of the potential for bat roosts to be present. Depending on the outcome of the Phase 1 Preliminary Roost Assessment, it may be recommended that Phase 2 Bat roosting surveys are carried out.

Phase 2 Presence/Absence Surveys should be carried out in all cases where the Phase 1 Preliminary Roost Assessment finds evidence of bats, potential for bats or where a complete and thorough inspection cannot be carried out. This survey can involve dusk emergence and/or pre-dawn re-entry surveys to aid identification of the species of bats present and estimation of the numbers of individuals. The emergence/re-entry surveys should follow the guidance on survey effort and frequency in the Bat Conservation Trust's *Good Practice Guidelines* (3rd edition, 2016) and will comprise between 1-3 emergence and/or pre-dawn re-entry surveys* between May and September (optimum period is between May to August). The emergence/re-entry surveys will allow the surveyor to consider the need for mitigation, enhancements and compensation, to assess the likelihood of an offence being committed and to make a decision as to the need for a European Protected Species Mitigation Licence from Natural England.

4.2 Public Comments

4.2.1 This application has been advertised for 21 days via site notice and no responses have been received.

5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design of structure

Impacts on visual and neighbouring amenity and the surrounding conservation area

Archaeology

Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The proposed site is situated within the Cleobury Mortimer Conservation Area. The proposal therefore has to be considered against Shropshire Council policies CS6 and CS17 and with national policies and guidance including PPS5 Historic Environment Planning Practice Guide and section 12 of the National Planning Policy Framework (NPPF). Special regard has to be given to preserving or enhancing the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.1.2 Alterations and development to properties are acceptable in principle providing they meet the relevant criteria of Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles; this policy seeks to ensure any extensions

and alterations are sympathetic to the size, mass, character and appearance of the original property and surrounding area. Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible. Section 12 of the National Planning Policy Framework reinforces these goals at a national level, by requiring development to display favourable design attributes which contribute positively to making places better for people, and which reinforce local distinctiveness.

6.1.3 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. MD13: The Historic Environment of the Site Allocations and Management of Development (SAMDev) plan further encourages development which delivers positive benefits to heritage assets.

6.2 Siting, scale and design of structure

6.2.1 Proposed is a 2-storey extension to the side elevation of the property. Coupled with internal reconfiguration to the accommodation of the dwelling, the addition shall provide an enlarged kitchen at the property to the ground floor and a bedroom and loft space to the first floor. A somewhat incongruous lean-to extension shall be removed from the property prior to the development proposed. The walls would be of brick construction to match the dwelling while the roof would be pitched and of tile construction with a matching eaves but lower ridge height to allow the proposal to appear subservient in nature. Conservation roof lights would be added to the front elevation, while the rear will have 2 windows to the ground floor that will mirror the existing ground floor windows and 2 pitched roof dormer windows would be added to the roof. In addition, 2 pitched roof dormer windows would be added to the existing front elevation of the dwelling to help break up the roof line and add character to the otherwise blank expanse of plain tiles roof. A small flat roof porch area would also be included off this proposed side extension that would match a proposed porch for the rear elevation over the existing door. These porches would be of a low-level brick wall with wooden oak pillars above sitting under a flat sedum green roof.

6.2.2 The replacement and updating of this existing lean-to side extension with a more sympathetic addition is favoured by Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles. The positioning of the ridgeline subservient to the existing is a positive design attribute as supported by SAMDev policy MD2: Sustainable Design.

6.3 Impacts on visual and neighbouring amenity and the surrounding conservation area

6.3.1 The updating of the incongruous lean-to structure, as is proposed, is welcomed. The proposed extension is well stepped down from the main roof line and stepped in from both elevations, both of which help with the subservience of the extension and allow the proposal to sit as a comfortable addition to the property, which is

considered an improvement to the surrounding area and wider conservation area. The proposed pitched roof dormers are traditional in appearance and the materials proposed would match the dwelling to allow it visually to blend in. Shropshire Councils Historic Environment Officer has been consulted and considers the proposal to be acceptable in this instance, In terms of the impact upon the wider conservation area. As a direct replacement to an existing structure it is not considered that the levels of activity associated with the proposal shall impact upon the amenity of residents significantly more than as existing.

6.4 Archaeology

6.4.1 The proposed development site within the medieval urban form of Cleobury Mortimer (PRN 05478) as defined by the Central Marches Historic Towns Survey, the presumed extent of Cleobury Mortimer Castle (PRN 03248), a group of tenement plots of post medieval date (PRN 05490) and adjacent to part of the medieval street system of Cleobury Mortimer (PRN 05477) and a holloway along Childe Street (PRN 06204). Although the proposed development is located within an area of low archaeological potential the nature of the proposal would have a very limited impact on any archaeological deposits, this however, would not be negligible. In view of the above and in accordance with the National Planning Policy Framework (NPPF), a condition requiring an archaeological inspection should be attached to any permission granted.

6.5 Ecology

6.5.1 Consideration must also be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and therefore the Council's Ecologist has considered the application and confirms standing advice can be used for the planning officer to select appropriate informatives regarding wildlife. These are to ensure that the proposal will comply with the adopted national and local policies and will improve and protect the existing biodiversity of the area.

7.0 CONCLUSION

The proposal is judged to be in scale and character with the original dwelling and its setting, and of no demonstrable harm in terms of residential amenity nor impact to the conservation area. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

West Midlands Design Charter

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

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

MD2 - Sustainable Design

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

11/01154/FUL Erection of a two storey extension to side GRANT 10th May 2011

16/01143/FUL Erection of extension to side elevation; internal alterations to allow for first floor accommodation; installation of replacement doors and windows GRANT 11th May 2016

SS/1/07/20090/CA Demolition of lean-to PERCON 4th December 2007

SS/1/07/20089/F Erection of extension to dwelling PERCON 4th December 2007

11. Additional Information

View details online: [22/01523/FUL | Erection of two storey side extension | 3 Castle Hill Cleobury Mortimer Kidderminster Shropshire DY14 8DA](#)

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 Gwilym Butler Cllr Simon Harris
Appendices APPENDIX 1 - Conditions

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 external materials shall match in colour, form and texture those of the existing building.
Reason: To ensure that the works harmonise with the existing development.
4. No construction works, demolition works and associated deliveries shall take place outside the hours of 7.30am to 6.00pm Mondays to Fridays; 8.00am to 1.00pm Saturdays; nor at any time on Sundays, Bank or Public Holidays.
Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.
5. No development approved by this permission shall commence until the applicant has notified Shropshire Council's Historic Environment Team not less than three weeks prior to commencement of ground works, and to provide him/her with reasonable access in order to monitor the ground works and to record any archaeological evidence as appropriate.
Reason: The site is known to hold archaeological interest

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

6. Prior to the first occupation/use of the development hereby approved, a minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on the site. The box(es) shall be sited at an appropriate height above the ground, with a clear flight path and where they will be unaffected by artificial lighting. The box(es) shall thereafter be maintained for the lifetime of the development.
Reason: To ensure the provision of roosting opportunities for bats, in accordance with MD12, CS17 and section 180 of the NPPF.

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. Drainage

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's SUDS Handbook which is available in the Related Documents Section on the Council's Website at: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

The provisions of the Planning Practice Guidance, Flood Risk and Coastal Change, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

SCHEDULE OF APPEALS AS AT COMMITTEE 28 June 2022

LPA reference	21/03707/VAR
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr Jack Goodall
Proposal	Variation of condition 2. to allow for amendments to the existing garage.
Location	Quercus Domus Pound Lane Hanwood Shrewsbury SY5 8JR
Date of appeal	24.05.2022
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/05140/FUL
Appeal against	Non-Determination
Committee or Del. Decision	Delegated
Appellant	Mr G W Pryce
Proposal	Change of use of agricultural land for siting of three camping pods, installation of septic tank, formation of parking area and landscaping works
Location	Boundary Cottage Linley Bishops Castle Shropshire SY9 5HW
Date of appeal	24.05.2022
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/01944/PIP
Appeal against	Non-Determination
Committee or Del. Decision	N/A
Appellant	H F Holdings Ltd (Mr S Miller)
Proposal	Application for Permission in Principle for residential development (5-9 dwellings)
Location	Proposed Residential Development Land North Of The Longmynd Hotel Cunnery Road Church Stretton Shropshire
Date of appeal	07.01.2022
Appeal method	Written Reps
Date site visit	19.04.2022
Date of appeal decision	27.05.2022
Costs awarded	No
Appeal decision	Dismissed

LPA reference	21/05845/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Churchill Retirement Living
Proposal	Erection of 4no 2 bedroomed age restricted cottages (60 years of age and/or partner over 55 years of age) with 6no car parking spaces and associated works
Location	Proposed Residential Development Land At Former Builders Yard South Of Innage Lane Bridgnorth Shropshire
Date of appeal	31/05/2022
Appeal method	Written representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	20/03508/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Shropshire Homes Ltd
Proposal	Erection of 18No. residential dwellings and associated parking/garaging with new adopted road following demolition of existing bungalow, garage and pool house
Location	Land To The East Of Garridge Close Albrighton Shropshire
Date of appeal	06.06.2022
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	17/01033/EIA
Appeal against	Refusal
Committee or Del. Decision	Cmmittee
Appellant	Mr M Bower
Proposal	Erection of four poultry buildings incorporating air scrubbing units, with feed bins, one gate house, one boiler house and circular water tank; and associated infrastructure and landscaping scheme (amended description)
Location	Footbridge Farm Tasley Bridgnorth Shropshire WV16 5LZ
Date of appeal	07.06.2022
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/02173/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr And Mrs Taylor
Proposal	Erection of an agricultural storage building and access gates
Location	Greenfields Farm Hilton Bridgnorth Shropshire WV15 5NZ
Date of appeal	07.06.2022
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/05218/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs T Smythe
Proposal	Erection of part two storey and part single storey extension following partial demolition; and partially replacing boundary fence with brick wall
Location	Pryll Cottage 19 Burway Road Church Stretton SY6 6DP
Date of appeal	07.03. 22
Appeal method	Written Reps
Date site visit	
Date of appeal decision	16.06.2022
Costs awarded	No
Appeal decision	Allowed

LPA reference	21/00817/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Bradford Rural Estates
Proposal	Application under Section 73A of the Town And Country Planning Act 1990 for the change of use of hardstanding and buildings (agricultural) to general industrial (Class B2) and storage (Class B8) uses
Location	Tong Hill Farm Hubbal Lane Tong Shifnal TF11 8PW
Date of appeal	24.03.2022
Appeal method	Written representations
Date site visit	24.05.2022
Date of appeal decision	20.06.2022
Costs awarded	
Appeal decision	Dismissed

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Appeal Decision

Site visit made on 19 April 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2022

Appeal Ref: APP/L3245/W/21/3283408

Land off Cunnery Road, Church Stretton, Shropshire, SY6 6AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for permission in principle.
 - The appeal is made by HF Holidays Ltd (Mr S Miller) against Shropshire Council.
 - The application Ref 21/01944/PIP, is dated 12 April 2021.
 - The development proposed is described as 'Development of land off Cunnery Road Church Stretton for residential development'.
-

Decision

1. The appeal is dismissed and planning permission is refused.

Applications for costs

2. An application for costs was made by HF Holidays Ltd (Mr S Miller) against Shropshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second stage ('technical details consent') is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.
5. The appeal follows the Council's failure to determine the application within the prescribed period. However, the Council has indicated in its statement, that had it been in a position to determine the application, it would have refused planning permission. The substance of the Council's statement has informed the main issue of the appeal.
6. The application form is undated, as such I have taken the date the application was submitted from the appellant's statement of case which confirms the date the application was submitted to the Council.

Main Issue

7. The main issue is whether the location of the proposed development would be acceptable with specific regard to the principle thereof, the Council's spatial strategy and access to services.

Reasons

8. The appeal site is an undeveloped parcel of land located within the grounds, and to the north, of the Longmynd hotel and associated chalets. The appellants submission details that the area of land had historically been used as a putting green but this use ceased some time ago. As such, it has the character and appearance of an agricultural field. The appeal site slopes up from the adjacent highway, with the holiday chalets located at a higher level.
9. The strategy for the area is set out in the Shropshire Council Local Development Framework Adopted Core Strategy (2011) (CS). It directs most new development to settlements. Policy CS1 addresses the spatial strategy, where Market Towns and Key Centres will be the primary focus for development. Church Stretton is defined as a Key Centre, where the principle of housing development is acceptable. In the countryside, beyond settlements, development is limited to Community Cluster Settlements and development that meets local economic and social needs.
10. A development boundary for Church Stretton is defined, outside of which the principle of residential development is only supported on an exceptional basis. The appeal site lies outside this boundary and does not fall within any of the Community Cluster Settlements listed in the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev). Exceptional circumstances put forward by the appellant for development outside the boundary include a lack of housing provision within Church Stretton itself.
11. SAMDev Policy MD3 allows for housing outside defined settlement boundaries where the settlement housing guideline is unlikely to be met subject to amongst other things, the benefit thereof and the presumption in favour of sustainable development. Policy S5 of the SAMDev details that a housing requirement of 370 dwellings for Church Stretton and the most up to date housing figures detail 216 completions and 65 permissions, therefore below the current requirement.
12. Church Stretton accommodates a range of services, including food shops, public houses and GP surgery. These are located in the core of the settlement. However, due to the location of the appeal site, dwellings would be physically separated from the settlement, and its services, by intervening land and woodland. Occupants would have two alternative routes to access these services.
13. During my site visit I noted an off-road footpath into Church Stretton through an area called Rectory Woods, however this appeared to be a recreational walking route which appeared unmade and was also steep and unlit. It would not, therefore, be suitable for pushchairs, wheelchair users or people with limited mobility. As the path is unlit, and crosses a field/wooded area, it would not be suitable for use outside daylight hours. Consequently, this route is only likely to be used for a limited proportion of journeys to access essential services.

14. The alternative route is via the road into Church Stretton. The road surface would be more suitable for pushchairs and wheelchairs, but the road width is narrow and there is no separate footpath, so pedestrians would have to share the carriageway with vehicles. Furthermore, there are considerable slopes to negotiate. These factors, together with the absence of lighting, would be likely to deter occupants from using sustainable travel options to obtain the services in the village via this route.
15. The unsuitability of these routes for sustainable access to services means that occupants would be likely to resort to private vehicles to make the journey into Church Stretton. No public transport services the appeal site into Church Stretton. Occupants of the proposed dwellings would therefore be largely dependent on private transport to access services and facilities. Therefore, whilst there may be an under provision of housing in Church Stretton, the adverse impacts of granting a planning permission would outweigh the benefit of an increase in housing. It would not therefore be sustainable development.
16. There would be some benefits to the proposed development in the provision of new housing. I would attach some weight to this albeit the amount would be tempered by the lack of a dispute between the main parties over the fact that the Council is able to demonstrate the supply of housing sites required by the National Planning Policy Framework (the Framework). Other economic and social benefits associated with the construction phase and future expenditure by occupiers in terms of taxation and day to day living would be accordingly limited by the upper limits of its scale.
17. Policy MD3 refers to the presumption in favour of sustainable development albeit does not explicitly defer to the Framework in terms of how that is assessed for development plan purposes. Appreciating the housing supply situation in any event, I would not be taken to assessing whether the presumption in favour would apply in the terms of the Framework. Taking into account my findings however, and even though there is a shortfall in housing in the settlement, it seems sufficiently clear that the adverse impacts of the appeal scheme, to which I would attach substantial weight given it relates to the principle of the proposed development, would outweigh its benefits.
18. I note that reference has been made in the Council's decision notice to CS Policy CS11. This policy relates to the type and affordability of housing and requires that exception schemes for affordable housing are on suitable sites adjoining Key Centres. The appeal site does not lie adjacent to the settlement boundary, however the proposed development is not for affordable housing. As such, I do not consider that this policy is directly relevant to the main issue.
19. The proposal would not provide a suitable location for housing having regard to the Council's spatial strategy and accessibility to services and facilities. Therefore, it would not accord with CS Policies CS1 and CS5 (insofar as it would represent any of the exceptions for development in the countryside), SAMDev Policies MD1 and MD3 and the guidance contained within the Shropshire Council Type and Affordability of Housing Supplementary Planning Document (2012) (SPD) which, amongst other things, seek to protect the countryside from inappropriate development and reduce the need to travel by private car. It would also not meet the aims of paragraphs 8 and 130 of the Framework in terms of ensuring accessible services and facilities.

Conclusion

20. The proposal would conflict with the development plan as a whole, and there are no other considerations worthy of sufficient weight, including the provisions of the Framework, which would outweigh this finding. Therefore, I conclude that the appeal should be dismissed and planning permission refused.

Tamsin Law

INSPECTOR



Costs Decision

Site Visit made on 19 April 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2022

Costs application in relation to Appeal Ref: APP/L3245/W/21/3283408 Land off Cunnery Road, Church Stretton, Shropshire, SY6 6AG

- The appeal is made under section 78 of 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 HF Holidays Ltd (Mr S Miller) against Shropshire Council.
 - The appeal was against a failure to give notice within the prescribed period of a decision on an application for permission in principle for the 'Development of land off Cunnery Road Church Stretton for residential development'.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) states that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the associated appeal process.
3. Paragraph 047 of the PPG advises that the type of behaviour that may give rise to a procedural award against a local planning authority could occur where there has been a failure to adhere to deadlines, or a lack of co-operation with the other party. Paragraph 049 advises that a local planning authority could be at risk of a substantive award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example by unreasonably refusing or failing to determine planning applications.
4. The applicant is concerned that a decision had not been issued by the Council within the agreed extended timescale. The Council has not provided any explanation of the reasons for the delay in reaching a decision.
5. The application was not determined by the Council, and while I can understand the applicant's frustration at the delays, I have seen no sufficiently compelling evidence that the Council behaved unreasonably. The Council has indicated that it would have refused the application if it had been able to determine it and has provided clear and detailed reasons why it would not have granted permission. It is not therefore the case that the appeal could have been avoided and therefore the applicant has not incurred unnecessary expense. Moreover, I have found that the Council had reasonable concerns about the proposal in my findings on the appeal.

Conclusion

6. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Tamsin Law

INSPECTOR



Appeal Decision

Site visit made on 17 May 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday 16 June 2022

Appeal Ref: APP/L3245/W/22/3290782

Pryll Cottage, 19 Burway Road, Church Stretton, Shropshire SY6 6DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr & Mrs T Smythe against Shropshire Council.
 - The application Ref 21/05218/FUL, is dated 11 October 2021.
 - The development proposed is described as “partial demolition of existing former extension for the provision of new extension to the existing dwelling house. Partially replacing boundary fence with brick wall to echo existing garden wall.”
-

Decision

1. The appeal is allowed and planning permission is granted for erection of part two storey and part single storey extension following partial demolition; and partially replacing boundary fence with brick wall at Pryll Cottage, 19 Burway Road, Church Stretton, Shropshire SY6 6DP in accordance with the terms of the application, Ref 21/05218/FUL, dated 11 October 2021, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs has been made by Mr & Mrs T Smythe against Shropshire Council. This application is the subject of a separate decision.

Preliminary Matter

3. I have taken the description of development in the decision paragraph from the appeal form since the original description, as it is shown on the banner header, was altered by the Council when the planning application was registered. The appellant has confirmed they don't object to the most recent description. I have proceeded on this basis.

Main Issue

4. The main issue is whether the proposal would preserve or enhance the character or appearance of the Church Stretton Conservation Area (CA).

Reasons

5. The appeal site is a detached dwelling located between Burway Road and Rectory Gardens. The surrounding area is predominantly residential, with the town centre located nearby. The site has a frontage to Burway Road, which is bounded by a high stone wall. On the opposite side of Burway Road is a steeply sloping green, the summit of which contains the town's war memorial. The significance of the CA lies, in part, in the extent to which the historic buildings

and their spacious layout appear to be intact, as well as the varied and individual appearance of dwellings. The overall verdant character of the area also contributes positively towards the significance of the CA. This is reflected by what is a landscaped and spacious plot.

6. Pryll Cottage is recognised as a non-designated heritage asset. It is constructed of a mixture of materials including brick with timber framing and clay roof tiles, set within a triangular plot. It's gable features, small scale and traditional form contribute positively to the area's historic context and thus the significance of the CA. A modern flat roofed single storey extension projects to the rear of the cottage which, given its design and use of materials in the above context, makes a more neutral contribution.
7. This extension would be removed as part of the appeal scheme. The design of which would be more traditional and follow the architectural style and thus historic character of Pryll Cottage. The proposed side elevation fronting Burway Road and visible therefrom would be set down from the ridge and set back from the original cottage. These features would provide a clear distinction and visual break between the host dwelling and the proposed extension, resulting in the development being seen as subordinate. The use of matching construction materials would contribute to the development being seen as a natural extension to the host dwelling rather than an incongruous new feature.
8. Furthermore, it would not appear prominent in views from outside the site, as it would be screened by the existing cottage. In addition, the mature vegetation around the site would obscure views from the neighbouring properties in Rectory Gardens.
9. The north-facing elevation would appear as a single-storey element due to the gradient of the land. Furthermore, the depth of the proposed extension would not be significantly greater than the existing flat roof rear extension. Although wider than the existing extension, the proposal would give a coherence to the rear elevation in terms of materials and be harmonious to the proportions of the existing cottage.
10. The proposal would extend into part of the garden area. However, due to the size of the plot, the development would not constitute an over-development of the site and would not appear cramped as a sufficient area of garden space would be retained. The proposed development would therefore not erode the spacious and verdant nature of the appeal site.
11. The proposal would result in the partial removal of a boundary fence, which is currently in a poor structural state. Its partial loss would be balanced by its replacement with a brick wall to match the existing boundary wall, which would improve the appearance of the boundary treatment. Overall, this would have a neutral effect.
12. The proposal would, for the reasons I have given, ensure that both the character and appearance of the CA would be preserved. As such, it would comply with Policies CS6 and CS17 of the Council's Shropshire Core Strategy (2011), and Policies MD2 and MD13 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015). Collectively, these policies seek to ensure development is of high quality design which respects its surroundings, including heritage assets and their significance. The proposal

would also comply with the historic environment policies contained within the National Planning Policy Framework.

Other Matters

13. Whilst the appeal site is close to the Old Rectory, a grade II listed building, there is a degree of both physical and visual separation between it and the proposal. Given this separation, the extension would not be directly read in relation to the listed building and as such the proposal would preserve its setting.
14. The proposal is also located near to the Grade II listed War Monument and the Grade I listed Church of St Lawrence. This was not a contentious matter for the Council and taking into account my observations on site, the proposed development would have a neutral effect on the setting of the listed monument and church.
15. The appeal site is within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). The Framework requires that I must give great weight to the conservation and enhancement of the landscape and scenic beauty of an AONB. In this instance, given the siting and scope of the development, I find that there would be no adverse impacts to the AONB and that as such its landscape and scenic beauty would be conserved.
16. Existing access to the cottage would be retained by the proposal. I also note that the Council have not raised any highway safety concerns. From my site observations it was evident that there was public parking available nearby. However, I have imposed conditions to safeguard the living conditions of the occupiers of neighbouring properties from potential nuisance during the construction stage.

Conditions

17. In addition to the standard time limit condition, I have imposed one requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty. To protect the character and appearance of the area and the particular qualities of the appeal building, a condition regarding the use of matching external materials is imposed. I have also imposed conditions to safeguard the living conditions of the occupiers of neighbouring properties from potential nuisance during the construction stage.

Conclusion

18. For the reasons given, having considered the development plan as a whole, the approach in the NPPF, and taken account of all other material considerations, the appeal should be allowed.

Helen Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 3) The development hereby permitted shall be carried out in accordance with the approved plans:
 - a. Location, Block & Site Plan – Drawing No 191427, PL101 (Oct 2021)
 - b. Proposed Site Block Plan – Drawing No 191427, PL104 (Oct 2021)
 - c. Existing Elevations – Drawing No 191427, PL103 (Oct 2021)
 - d. Existing Floor Plans & Roof Plan – Drawing No 191427, PL102 (Oct 2021)
 - e. Proposed Elevations – Drawing No 191427, PL107 (Oct 2021)
 - f. Proposed Floor Plans – Drawing No 191427, PL105 (Oct 2021)
 - g. Proposed Roof Plan – Drawing No 191427, PL106 (Oct 2021)
- 4) All works (including demolition), site works and construction shall only take place between the hours of 08.00 and 18.00 Monday to Friday and 08.00 and 14.00 Saturdays, and not at any time on Sundays, Bank or Public holidays.
- 5) No deliveries to the site in connection with the development hereby approved shall occur except between the hours of 08.00 and 18.00 Monday to Friday and 08.00 and 14.00 on Saturdays, and not at any time on Sundays, Bank or Public holidays.

*****End of Conditions*****



Appeal Decision

Site visit made on 24 May 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2022

Appeal Ref: APP/L3245/W/21/3279076

Tong Hill Farm, Hubbal Lane, Tong, Shifnal TF11 8PW

- 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 Bradford Rural Estates against the decision of Shropshire Council.
 - The application Ref 21/00817/FUL, dated 19 January 2021, was refused by notice dated 18 May 2021.
 - The development proposed is the change of use of hardstanding and buildings (Agricultural) to General Industrial (Class B2) and Storage (Class B8) uses.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of the site visit I noted that the development has been implemented. The application has been submitted retrospectively and I have dealt with the appeal on this basis.

Main Issues

3. The main issues are:
 - Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - The effect of the development upon the living conditions of existing occupiers;
 - Whether the development preserves or enhances the character or appearance of the Tong Conservation Area (CA);
 - The effect of the development upon highway safety; and
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the development.

Reasons

Whether the development is inappropriate development and the effect upon openness

4. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Development in the Green Belt is regarded as inappropriate save for a number of specified exceptions.
5. One such exception is the re-use of buildings provided that the buildings are of permanent and substantial construction, and they preserve the Green Belt's openness and do not conflict with the purposes of including land within it. The second is the material change in the use of land.
6. The Framework states that one of the essential characteristics of the Green Belt is its openness. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm. Openness has both spatial and visual aspects.
7. Policy CS5 of the Shropshire Core Strategy (2011) (CS) relates to development in the Green Belt and states that proposals will be assessed in accordance with national guidance. Policy MD6 of the Shropshire Site Allocations and Management of Development Plan (2015) (SAMDev) sets out that development on previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development, provided the development is for employment will be supported.
8. The appellant advises that the site is used for the storage and refurbishment of portable site accommodation, storage and welfare units. This includes the outdoor storage of units and containers in the yard. Whilst the yard is screened by buildings and landscaping the units and containers were clearly visible from within the surrounding area at the time of my site visit.
9. I find that the outdoor storage of units and containers has a substantial impact on openness in both visual and spatial terms. I am not satisfied that the proposed landscaping scheme or a condition limiting the height of stored containers, along the lines of that suggested by the appellant, would offset the impact on openness.
10. I acknowledge that previous agricultural activities would have involved the outdoor storage of goods, materials and machinery. However, this would be entirely appropriate and in keeping with the surrounding area given its previous use as a farmstead. In my view the presence of stored units and containers compromises openness to a greater extent. The development has a substantial impact on openness in both visual and spatial terms contrary to the aims and objectives of the Framework.
11. With regard to the potential for a fallback position and the use of the site for purposes falling within Class R. I am not aware that prior approval has been granted for such a development and I therefore afford this matter only limited weight in coming to my decision. Furthermore, I have determined this appeal on its own individual planning merits.
12. Consequently, the development constitutes inappropriate development as set out in Paragraph 147 of the Framework, Policy CS5 and SAMDev Policy MD6.

Living conditions of existing occupiers

13. The development results in heavy goods vehicles (HGV) transporting cabins and containers to and from the site through the village. The appellant's highway evidence indicates that whilst there would be a modest reduction in the overall number of movements passing through the village the development results in a small increase in HGV movements in the area.
14. In my view the type and frequency of HGV movements through the village is likely to generate greater noise and increased disturbance to occupiers of nearby residents, particularly as a number of dwellings sit on the roadside. The uncertain and arbitrary timings of the movements is likely to be more noticeable having an unacceptable impact on the living conditions of occupants in terms of noise and disturbance.
15. I acknowledge that the former agricultural activities would have resulted in a degree of noise and vehicle movements through the village. However, the development generates an increase in activity which is different in nature to agricultural uses. This results in noise and disturbance that is above and beyond what the residents would have been accustomed to in this sensitive rural location. The proposal is therefore harmful to the living conditions of nearby occupants. Whilst a condition could be imposed to limit the hours of operation to normal working hours it would not overcome the harm that I have identified.
16. I conclude that the harm caused by the noise and disturbance associated with HGV movements through the village affects the living conditions of existing occupants. As such, the development is contrary to Policy CS6 which, amongst other things, seeks to ensure that all development safeguards residential and local amenity.

Heritage impact

17. The CA comprises Grade I listed St. Bartholomew's Church which sits in a spacious setting dominating its immediate setting and a cluster of dwellings that make up the core of the village. The informal, spacious, and organic layout of the buildings and their well-preserved traditional architecture contribute to the significance of the CA. Beyond the buildings to the east is a large coppice of trees that leads to Tong Hill Farm and an agrarian landscape which provides an important setting to the village. The village is largely devoid of traffic due to the presence of the A41 bypassing the village resulting in a pleasant peaceful rural character.
18. I acknowledge that there is a general hum emanating from road traffic on the M54 and A41, but this is no more than background noise and, in my view, does not detract from the sense of peacefulness experienced when walking through the village and the surrounding area. In contrast the development results in HGV and vehicle movements through the core of the village and the associated noise and disturbance detracts from the peaceful rural character of the village.
19. Reference has been made to the horse riding centre generating noise, but there is nothing to suggest that this is no more than a low key use in keeping with its rural environment. Whilst there is no doubt that farm traffic would have travelled through the village the HGV movements and traffic are not in keeping with the rural character of the area.

20. Whilst the Council's Conservation Officer did not raise heritage concerns to the application this does not alter my findings in respect of this issue.
21. In light of the above I find that there is some, albeit limited harm to the CA. In accordance with Paragraph 202 of the Framework, it is for the decision maker, having identified harm to designated assets, to consider the scale of that harm. In this case I conclude that the proposal would lead to less than substantial harm to the significance of the CA. This harm should be weighed against the public benefits of the proposal including, where, appropriate, securing its optimum viable use, which I now turn to.
22. No public benefits have been presented by the appellant therefore taking into consideration the points above I find that the harm to the CA clearly outweighs the public benefits of the proposal. As such, it would fail to preserve or enhance the character or appearance of the CA contrary to Policy CS17 and SAMDev Policies MD2 and DM13 which, amongst other things, seek to protect and enhance the historic environment.

Highway safety

23. Hubbal Lane is a single width country lane that extends through a cluster of buildings sitting at the edge of the road and through a large coppice with grass verges, high banks and trees close to the road. Hubbal Lane is a no-through road that serves the site, residential dwellings and farmland. There is also a bridleway public right of way that extends along it and past the appeal site used by pedestrians and horse riders. Due to the alignment of the road forward visibility through the coppice is limited.
24. There are no passing places along the road and there is evidence of vehicle overrun from areas of eroded verges. Despite the Council's contention it does not appear to be causing land slippage along the road.
25. Hubbal Lane due to its narrow width and limited forward visibility is not conducive for the level and type of traffic using the road. The increased number of HGVs using the road and the lack of forward visibility is likely to result in conflict between vehicles travelling in different directions as well as pedestrians and riders, irrespective of speed. Given the narrow width of the road and the high banks the development is likely to lead to vehicles having to reverse along sections of the road to allow traffic to pass compromising highway safety.
26. The frequency of traffic using the road and the absence of road traffic accidents in the last 5 years does not alter my conclusion that the type of traffic activity and lack of visibility adversely affects highway safety.
27. The appellant has drawn my attention to the previous agricultural use of the site. However, this would largely be seasonal and therefore the frequency of traffic would fluctuate and would not be all year round. Furthermore, occupants and users of Hubbal Lane would be used to experiencing some farm traffic.
28. The proposed package of highway works would not, in my judgement, result in a meaningful improvement of the highway. I am not satisfied that the passing places would improve traffic movements as visibility is still restricted due to the alignment of the road and conflict between vehicles would likely continue. Moreover, given the high sided banks and presence of trees either side I am not satisfied that the passing places could be constructed or that they would have an appearance that would be in keeping with its rural location. Having

regard to the Planning Practice Guidance¹ I am not satisfied that the package of highway works could be secured by condition or that they would be reasonable or enforceable.

29. As such, I conclude that the development is contrary to Policy CS6 which, amongst other things, seeks to ensure that all developments are safe and accessible.

Other Matters

30. The appellant has made reference to permission for the re-use of buildings at Tong Hill Farm for industrial and storage and distribution uses. However, based on the limited information before me it is apparent that the circumstances in each proposal are materially different and is not a reason, on its own, to allow unacceptable development. In any event it is incumbent upon me to assess the merits of the proposal before me and every appeal must be considered on its own merits, as I have done.

Conclusion

31. In line with the Framework the proposal would be inappropriate development in the Green Belt. It would also result in the loss of openness. I attach significant weight to this harm, as required by paragraph 148 of the Framework. I have also found harm with regard to highway safety, living conditions of residents and the historic environment.
32. There are no other considerations in this case that would clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
33. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR

¹ Paragraph: 009 Reference ID: 21a-009-20140306

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