



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

Date: Monday, 6 February 2023

Committee:
Southern Planning Committee

Date: Tuesday, 14 February 2023
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.

Please click [here](#) to view the livestream of the meeting on the date and time stated on the agenda

The recording of the event will also be made available shortly after the meeting on the Shropshire Council Youtube Channel [Here](#)

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)
Nick Hignett (Vice Chairman)
Caroline Bagnall
Andy Boddington
Richard Huffer
Christian Lea
Hilary Luff
Nigel Lumby
Tony Parsons
Ed Potter
Robert Tindall

Substitute Members of the Committee

Gwilym Butler
Rachel Connolly
Nigel Hartin
Pamela Moseley
Cecilia Motley
Claire Wild
Mark Williams
Paul Wynn

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 - 4)

To confirm the minutes of the Southern Planning Committee meeting held on 13 December 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 5.00 pm on Thursday, 9 February 2023

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 Pendeford Lower Barns Road Ludford Ludlow Shropshire (22/03472/FUL) (Pages 5 - 22)

Erection of one dwelling (following demolition of existing buildings) and detached double garage/garden store, modifications to existing vehicular access, to include removal of trees (re-submission)

6 The Waterfall Malehurst Minsterley Shrewsbury Shropshire (22/05036/FUL) (Pages 23 - 36)

Erection of one dwelling

7 Proposed Affordable Dwelling To The North Of Glazeley Bridgnorth Shropshire (22/03728/FUL) (Pages 37 - 50)

Erection of an affordable dwelling, detached garage and associated works.

8 20 Willow Park Minsterley Shrewsbury Shropshire SY5 0EH (22/05696/FUL) (Pages 51 - 62)

Erection of two storey side extension

9 Schedule of Appeals and Appeal Decisions (Pages 63 - 108)

10 Exclusion of Press and Public

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

11 Planning Enforcement Quarterly Report (Pages 109 - 122)

12 Date of the Next Meeting

To note that the next meeting of the Southern Planning Committee will be held at 2.00 pm on Tuesday 14 March 2023



Committee and Date

Southern Planning Committee

17 January 2023

SOUTHERN PLANNING COMMITTEE

Minutes of the meeting held on 13 December 2022

2.00 - 2.35 pm 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

Councillors David Evans (Chairman), Caroline Bagnall, Andy Boddington, Roger Evans, Nigel Hartin, Christian Lea, Hilary Luff, Nigel Lumby, Tony Parsons and Ed Potter

92 Apologies for Absence

An apology for absence was received from Councillor Nick Hignett

93 Minutes

RESOLVED:

That the Minutes of the meeting of the Southern Planning Committee held on 15 November 2022 be approved as a correct record and signed by the Chairman.

94 Public Question Time

There were no public questions received

95 Disclosable Pecuniary Interests

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

In respect of agenda item 5 Councillor Christian Lea declared that he was the Local Member and that he would make a statement and then withdraw from the meeting and take no part in the debate or voting.

96 Land Adjacent To Sainsburys Supermarket, Smithfield Car Park, Bridgnorth (21/01963/FUL)

The Planning and Development Services Manager advised the meeting that the officer recommendation had been changed to one of deferral to allow officers further time to consider a number of issues including conservation

RESOLVED:

That the application be deferred to allow Officers further time to consider issues including conservation

97 Building 10 Stanmore Business Park Bridgnorth Shropshire WV15 5HR (22/01264/FUL)

The Principal Planner introduced the application which was an application for the change of use from training facility (D1) to general industrial (B2) and installation of ancillary plant and equipment (2 flue stacks, one water tank), and with reference to the drawings and photographs displayed, he drew Members' attention to the layout proposed.

The Principal Planner confirmed that members had attended a site visit and drew Member's attention to the information contained in the schedule of late representations, and to a further email that had been received from Public Protection setting out a further response to points made by Mr Wilson in the email he had sent to Members prior to the meeting.

Peter Wilson, local resident, spoke against of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

The Solicitor read out a statement from Councillor Richard Marshall, local Ward Councillor in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Anne Dugdale, (Agent), spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Members generally welcomed the proposals and commented that the site visit and the further information supplied by Public Protection had allayed any concerns that they had.

RESOLVED:

That in accordance with the Officer recommendation, planning permission be granted subject to the conditions set out in appendix 1 of the report and that delegated power be given to the Planning and Development Services Manager in consultation with Legal Services to amend conditions 5,8 and 9

98 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 13 December 2022 be noted.

99 **Date of the Next Meeting**

RESOLVED:

That it be noted that the next meeting of the Southern Planning Committee will be held at 2.00 pm on Tuesday, 17 January 2023

Signed (Chairman)

Date:

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AGENDA ITEM



Committee and date

14th February 2023

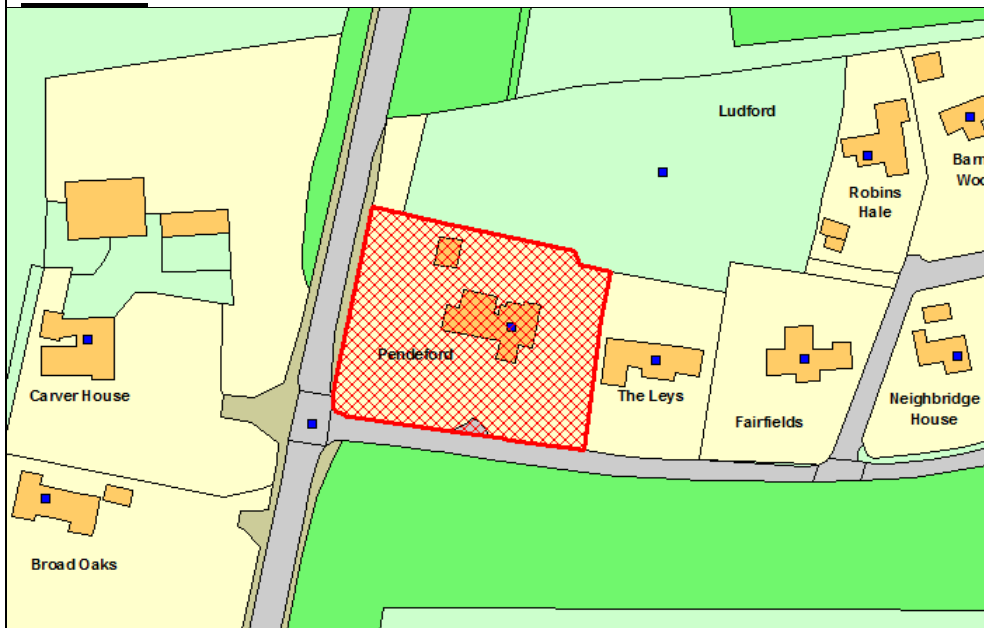
Development Management Report

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

Summary of Application

Application Number: 22/03472/FUL	Parish:	Ludford
Proposal: Erection of one dwelling (following demolition of existing buildings) and detached double garage/garden store, modifications to existing vehicular access, to include removal of trees (re-submission)		
Site Address: Pendeford Lower Barns Road Ludford Ludlow Shropshire		
Applicant: Mr & Mrs Fisher		
Case Officer: David Jones	email: david.jones@shropshire.gov.uk	

Grid Ref: 351179 - 273820



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

Recommended reason for refusal

1. The proposed replacement dwelling, and the associated garage are materially larger than the existing dwelling and garage that they replace, on account of the significant increase in the internal floor, height and the length (in the case of the garage). The scale, bulk, height, roof pitch and detailing of the proposed development is not sympathetic to the size and mass of the original property. The proposal is therefore contrary to Policy CS5, and CS6 of the adopted Core Strategy, SAMDev Policy MD7a, The Type and Affordability of Housing SPD, and the National Planning Policy Framework.

REPORT

1.0 THE PROPOSAL

1.1 The application seeks planning permission for the erection of one dwelling (following demolition of existing buildings) and detached quadruple garage incorporating a garden and bin store. The application also seeks permission for modifications to existing vehicular access and the removal of trees

1.2 The planning application comprises a resubmission of planning application 22/00137/FUL which was refused for the following reasons:

1. The proposed replacement dwelling is materially larger than the existing dwelling it replaces, on account of the significant increase in footprint, internal floor and height proposed. The replacement dwelling does not occupy the same footprint as the existing due to its scale, and is not sympathetic to the size and mass of the original property. The proposal is therefore contrary to Policy CS5, and CS6 of the adopted Core Strategy, SAMDev Policy MD7a, paragraphs 2.20-2.23 of The Type and Affordability of Housing SPD, and paragraphs 11-14 of the National Planning Policy Framework.
2. It is considered that the proposed scale, massing, bulk, design and appearance of the replacement dwelling proposed will not reflect the existing building, nor does it appropriately respond to the character of the locality and surrounding development. The proposal will result in overbearing and visually prominent dwelling which fails to respond to the defining character of the existing scenario and will therefore have a detrimental impact on the existing buildings character and visual appearance within its rural setting. As such the proposal is considered contrary to Policies CS5, CS6, and CS17 of the Shropshire Core Strategy, Policies MD2, and MD12 of the SAMDev and the overall aims and objectives of the NPPF in relationship to sustainable development.
3. The extension of the curtilage associated with the dwelling on site will result in unjustified and unacceptable encroachment into the countryside whilst fragmenting an existing agricultural paddock and failing to respond to the development pattern and characteristics of the locality. For this reason the extension of the residential curtilage is considered contrary to Policies CS5, CS6, and CS17 of the Shropshire Core Strategy, Policies MD2, and MD12 of the SAMDev and the overall aims and objectives of the NPPF in relationship to sustainable development.

1.3 In comparison with planning application 22/00137/FUL the proposal has been amended as follows:

- An extension to the existing residential curtilage into the paddock to north has been omitted.
- Whilst the design of the proposed dwelling remains substantially the same the scale has been reduced by removing the integral garage which was previously proposed in proximity to the eastern boundary. Guest accommodation was included at first floor level in the integral garage but none is included as part of the current proposal.
- The previous garage was integral to the dwelling and was proposed in proximity to the eastern boundary, this has now been replaced by a quadruple garage building (incorporating a garden and bin store) along the western boundary. This garage is around 20.5 metres in length and 9.3 metres in width at its widest part. The design of the building is reflective of the proposed dwelling including steep pitched roofs.
- The pool house proposed previously has been omitted.

- 1.4 In total one individual tree (T6 Snowy mespil) and two groups (G1 Western red cedar & Lawson cypress and G2 Leyland Cypress) of trees are proposed to be removed. Additional hedge planting is proposed along the western boundary along the B4361 Overton Road.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site comprises an existing dwelling and its curtilage. The site is located to the south of Ludlow to the north side of Lower Barns Road.
- 2.2 The boundaries of the site are currently formed of mature trees and hedging to the west and north, timber post and rail fencing to the east and a stone wall to the southern boundary to the highway.
- 2.3 In a wider context to the north of the site is an area of woodland, to the east are neighbouring residential properties, to the south beyond Lower Barns Road is agricultural land and to the west is the B4361 Overton Road, on the opposite side of which are two further residential dwellings and open countryside.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1 The parish council and the local councillor support the planning application and it was decided at the southern agenda setting meeting that the planning application should be considered by the Southern Planning Committee.

4.0 Community Representations

4.1 Consultee Comment

4.1.1 Ludlow Parish Council – Support

LPC are pleased to see that although the existing building is to be demolished, the new building appears to use the same footprint and that the garage is now separate to the house and on the opposite side i.e., by the road.

Extending the accommodation area by adding a first floor is a better choice and now the new house will be the same distance from the neighbouring property as it is now. LPC are pleased that there is no development planned for the paddock.

It appears that the applicant has paid attention to all previous comments and LPC now supports the application.

4.1.2 Councillor Vivienne Parry 03/10/2022 – Support

This new plan seems to me to have addressed all the problems that the other plans put forward did not. The annex, garage is in a better position not next to the next door property and the Leylandii Trees removed and new screening a better outlook with the entrance splay made bigger to the entrance to Lower Barns Rd a great improvement making residents lives easier to get out on to the main road without incident always a hard job. The house is the right size for this site and will be an improvement on the old I wish this to go forward with my approval thanks.

4.1.3 SC SUDS –No Objection

Informative recommended.

4.1.4 SC Conservation – No Objection, conditions recommended.

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 Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

The application proposes the erection of one dwelling (following demolition of existing buildings) and detached double garage/garden store; modifications to existing vehicular access; to include removal of trees (resubmission) at Pendeford, Lower Barns Road, Ludford. The site

lies outside but close to the boundary of the conservation area. The property itself appears to be an early to mid twentieth century dwelling. The application includes a brief Heritage Impact Assessment and Design and Access Statement. On balance the proposal is not considered to create any undue harm to the character and appearance of the conservation area in this instance. The proposal would therefore be considered to generally accord with policies, guidance and legislation as outlined above from a conservation perspective.

4.1.5 **SC Affordable Housing – No Objection**

No objection. The proposed development falls below the threshold by which the Local Planning Authority are able to require a contribution towards affordable housing. Therefore, no affordable housing obligations are relevant in this instance.

4.1.6 **SC Ecology – 23.08.2022 – No Objection, conditions recommended.**

Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

4.1.7 **SC Trees**

Comments 22/8/22: Further Information Required

For the following reasons the Tree Team find that from a landscape and arboricultural perspective there is insufficient information and detail to support this application as representing sustainable development and good design:

There are a number of mature trees and hedgerows on and adjacent to the site that are significant in the landscape at this key gateway to Ludlow, and whilst the Tree Team have no sustainable objection to the demolition of the existing property and construction of a new dwelling and outbuildings, it is noted that the demolition and new layout introduce a number of arboricultural implications that need to be addressed following best practice in relation to design demolition and construction in the proximity of trees. The trees of most notable significance are the mature pine trees at the front of the property and trees T9 (oak) T10 (Beech), T11 (Beech) & T13 (yew) at the rear the of the existing buildings between the garden and the paddock.

The arboricultural assessment Ref. 4559 dated 19/01/2022 is the same report as was submitted with the refused application reference 22/00137/FUL. The site layout has changed significantly introducing a

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different set of arboricultural implications but the arboricultural report and tree protection plan do not reflect those changes. (See SC Trees addendum dated 22.08/2022 for interpretation).

It is noted that the arboricultural consultant has not had access to details for the ingress of new services or the layout of SUDS systems and any improvements to the septic tank arrangements the design and layout of these provisions needs to be informed by the Tree Constraints Plan and result in design that avoids or significantly mitigates any encroachments into the RPAs of retained trees.

In the light of the consultee comments submitted by the Drainage Team it is not clear how a sustainable urban drainage system incorporating a soakaway can be created at this site without significant detrimental arboricultural implications. This shortcoming in the arboricultural impact assessment was highlighted in the previous application 22/00137/FUL but the size and location of the new outbuilding coupled with arboricultural constraints exacerbates rather than improving the issues previously discussed

The proposed layout for the new outbuilding is of a scale and massing comparable to the one refused in the previous application (22/00137/FUL) but is located hard up against the Overton Road boundary with no perceptible option for landscape mitigation between the new building and the road. The Tree Team note that the Highways Team are seeking for a betterment of the main access to Overton Road from Barns Road this would necessitate further loss of vegetative screening from the site boundary significantly increasing the massing and influence of built structures at this gateway to Ludlow. From the perspective of national and local policy aspirations to sustainably incorporate new development into the local landscape this appears to be in direct conflict with the reasons given for the refusal of application 2/00137/FUL.

The indicative tree protection plan (BHA_4559_02) merits further improvements and needs to provide more information for the end user (developer) through clearly identify construction exclusion zones (CEZs) where Root Protection Areas (RPAs) fall outside the tree protection fences and the provision of details relating to the storage / location of toxic materials, cement mixing sites, fires and any other activities that might result in secondary arboricultural impacts from seepage or run off.

Section 8.4 of the Arboricultural Impact Assessment (AIS) sets out some heads of terms for an arboricultural method statement, whilst these are broadly acceptable there needs to be an inclusion of measures for the

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engineering works, SUDS arrangements and location and route of services / septic tank and soakaways. The Tree Team note and support the need stated in the AIS for arboricultural oversight for elements of the development.

On the basis that the Tree Team are unable to determine / recommend that this application represents good design and sustainable development we are not advising on planning conditions at this time. However, should the Case Officer determine that in the balance of all relevant matters that it is expedient to progress this application towards consent without significant change then the Tree Team would be willing at that time to advise on conditions.

Comments 10/10/22: Further Information Required

In their consultation comments (and addendum) dated 22nd August 2022 the Council's Tree Team highlighted a number of issues that make it impossible for them to support the application as representing sustainable development from arboricultural and landscape perspectives. The submission of the plans for the proposed access (Ref 401) dated 26/09/2022 fails to address any of the Tree Teams previously stated concerns whilst at the same time introducing several new arboricultural implications:

- i. The removal and reconstruction of the front boundary wall will impact upon the root protection areas (RPAs) of trees along the southern boundary of the site.
- ii. Moving the access has significant potential to impact upon the RPAs of the two mature pine trees.
- iii. The introduction of electric gates and the provision of a power source to the gates will require excavations in the RPAs of the two mature pines trees.

The trees along the sites frontage with the Lower Barns Road are important for any development at this sites sustainable integration into the local area, the likely damage done to the trees without any indication of input from a competent arboriculturist or for provision to mitigate or compensate for those impacts is contrary to aspirations for sustainable development set out in local and national policies and to good practice and design guidelines.

25.11.2022 – No Objection, planning conditions recommended.

As discussed in their consultee comments of dated 10/10/2022 the Tree Team maintain that the revised proposed layout introduces works that have high potential to compromise tree T2 (mature pine) and degrade the

existing green infrastructure currently screening the site. But it is noted that the County Councillor and Parish Council have offered their support for this application indicating that this is a compromise that they are comfortable with.

Having considered the revised arboricultural impact assessment (AIS revised Nov. 2022) and revised tree retention removal and protection plan (Plan ref. BHA_459_02) the tree team note the following:

(i) A modified construction exclusion zone that offers better protection to tree T1, although no revised layout has been submitted in support of this.

(ii) A statement on the key that “No work to occur within CEZ without prior approval of Project Arboriculturist and/or LPA. All ground levels to be maintained as existing”.

(iii) Section 6.10. of the Tree report states: “Service installation: I have not been provided with plans showing the routes of new services or drainage for the property. The existing property is already connected to mains gas, water and electricity so it seems reasonable to assume that no new pipes or cables will need to be laid through the site for the property”. This is unsatisfactory and any future arboricultural method statement will need to identify the route of ingress and egress of all new or refurbished service runs and provide appropriate best practice solutions when working in the proximity of retained trees.

Section 8.4 of the Arboricultural Impact Assessment (AIS) sets out some heads of terms for an arboricultural method statement, whilst these are broadly acceptable there needs to be an inclusion of measures for the engineering works, SUDS arrangements and location and route of all services / septic tank and soakaways. The Tree Team note and support the need stated in the AIS for arboricultural oversight for elements of the development.

4.1.8 **SC Archaeology – No Objection**

4.1.9 **SC Highways** – No objections and a planning condition is recommended to require that any gates are set back a minimum distance of 5 metres..

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Shropshire Council as Highway Authority has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

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Public Comments

- 4.2.1 This application was advertised in the local newspaper and the Councils website. Additionally, a site notice was sent to the agent/applicant for erection at the site. At the time of writing this report, two representations of support had been received in response to this publicity.
- 4.2.2 The reasons cited for the supporting to the application can be summarised as follows:
- A next door neighbour supports the application on the basis that they consider that the design at 1 and a half is appropriate for the site and the context which is rural where there are individually designed properties with wide buffers between buildings.
 - The south-western corner of the Pendeford demesne severely impacts on visibility for traffic wishing to turn out of Lower Barns Road (LBR) and join the B4361 (Overton Road) by virtue of the high hedging, tall trees, and stone wall. This creates a potential accident risk and fortunately those accidents that have occurred in recent times have not resulted in serious injury which is exacerbated factors listed including the speed of vehicles. This application presents an opportunity to significantly diminish a road traffic accident risk by making it contingent on any planning approval that the hedge is cut back and the wall reduced to facilitate a vehicle's safe exit by improving the visibility at the road junction.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy, the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes

guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

- 6.1.2 In terms of the principle of the development, Core Strategy Policy CS1 sets out a settlement hierarchy for Shropshire, with new development to be focussed in Shrewsbury, the main Market Towns, and other identified Key Centres, including Ludlow, in accordance with Core Strategy Policies CS2 and CS3. Policy CS4 seeks to ensure that in the rural areas of the county, those settlements defined as Community Hubs and Community Clusters are the focus for new development and investment. The objective is to provide facilities, economic development and housing for local needs, that is of a scale that is appropriate to each settlement. The remainder of the rural area of the county is defined as countryside, where new housing development is regulated in accordance with the Core Strategy Policy CS5 and SAMDev Policy MD7a. The site falls within the area of the county defined as countryside.
- 6.1.3 Policy MD7a specifically sets out the requirements in relation to replacement dwellings in the countryside and makes clear that they will only be permitted where the dwelling to be replaced is a permanent structure with an established continuing residential use and that they should not be materially larger and must occupy the same footprint as the existing dwelling, unless it can be satisfactorily demonstrated why this should not be the case. It also states that where the original dwelling has been previously extended or a larger replacement is approved, permitted development rights will normally be removed.
- 6.1.4 Further detail on these requirements is set out in the Council's Type and Affordability of the Housing Supplementary Planning Document (SPD) (September 2012) Paragraphs 2.20-2.24. The SPD on the Type and Affordability of Housing allows for the construction of replacement dwellings provided that the residential use of the original dwelling has not been abandoned. There is also a requirement for the visual impact of the replacement dwelling to respect the local character of the area taking into account bulk, scale, height and external appearance of the resultant dwelling. The replacement dwelling should be sited in the same position, and should also be similar in size and appearance to the building that is to be replaced.
- 6.1.5 With regard to design, Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. In addition, policy MD2 of

SAMDev also deals with the issue of sustainable design and builds further on policy CS6.

- 6.1.6 Section 12 of the National Planning Policy Framework; Achieving good design, 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.
- 6.1.7 Shropshire Core Strategy Policy CS17: Environmental Networks is concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreational values and function of these assets.
- 6.1.8 Policy MD13 of the SAMDev seeks to ensure Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored through appropriate and well considered design. This policy is relevant to this current application where the site is located in close proximity to the Conservation Area.
- 6.1.9 It was stated in the report on the previous planning application (22/00137/FUL) that officers were satisfied that the existing house retained its existing lawful residential use. It is reaffirmed that this is the case based on current case officer's site visit. The proposed dwelling is also substantially on the same footprint as the existing dwelling. In both these respects therefore the proposal is policy compliant. The scale of the proposed dwelling has been reduced relative to that proposed in the previous planning application, but the proposed dwelling is still larger than the existing and the proposed garage building is also larger than that proposed in the previous application. These aspects are assessed in detail in the next section of this report.

6.2 Siting, scale and design of structure

- 6.2.1 This section of the report focuses on the requirement in policy MD7a that the replacement dwelling should not be materially larger than the dwelling it replaces. Paragraph 3.63 of MD7a explains that the control of replacement dwellings in the countryside needs to be considered in conjunction with the general criteria in the policy and in terms of visual, heritage loss and other impacts associated with the proposal. It goes on to explain that in the case of residential properties there is additionally the objective of regulating the size of replacement properties in order to limit the tendency towards the provision of larger dwellings in the

countryside and to maintain a mix of dwelling types.

- 6.2.2 The existing dwelling is single storey having a floor area of around 217.9m². It has a pitched roof which attains a height to the ridge of around 6.37 metres. There is an existing garage to the rear which has a floor area of around 36.3m².
- 6.2.3 The proposed dwelling in comparison is of three storeys in total. It includes sizeable living accommodation at ground floor level which amounts to an area of around 235 m². At first floor level three bedrooms are proposed and there are associated en-suites and dressing rooms. At second floor level there is a reading room and store proposed. Including the accommodation at first (179 m²) and second floor (33m²) level the total floor area of the proposed dwelling would amount to around 447m².
- 6.2.4 Presently within the existing residential curtilage there is a small single bay detached garage to the rear of the dwelling which would be demolished as part of the proposals. A new detached garage is proposed on the western boundary of the site. The siting of this detached garage is considered to be acceptable in spatial terms being adjacent to the existing hardstanding forming the driveway (which is to be extended), whilst it will result in the loss of trees (T6, G1 and G2) the council's Tree Team do not object. Turning to the scale of the detached garage, it would have 4-bays and incorporate a garden and bin store. It is a large building having a length of some 20.5 metres and is 9.3 metres in width at its widest. The highest part of the pitched roof of the garage is nearly 10 metres in height.
- 6.2.5 It is clear from the assessment above that the proposed replacement dwelling and garage represents a significant increase in scale relative to the modest existing house and garage present. Having regard to these considerations it is considered that the proposed replacement dwelling, and the associated garage are clearly 'materially larger'. The scheme is therefore considered to represent a conflict with policy MD7a in that the replacement dwelling and garage are materially larger than the development they replace. The harm arising from the conflict with this policy is considered to be significant.
- 6.2.6 The proposed development is located in a prominent location adjacent to the Overton Road which forms a principal throughfare into Ludlow. Lower Barns Road adjacent to the south leads to a number of other properties and also forms part of the route of a Public Right of Way. Officers consider that the scale of the dwelling and garage will be experienced as overbearing and dominant when viewed from Overton Road and Lower Barns Road. It is further considered that these impacts will be

exacerbated by the removal of the trees on the site. Whilst replacement planting is proposed this will take time to establish so will not mitigate the situation satisfactorily.

- 6.2.7 It is considered that the scale, bulk, height, roof pitch and detailing all fail to reflect the character of the original dwelling which is to be replaced and will have a significant detrimental impact upon the character of the area. The steep pitched roofs give vertical prominence to the dwelling and emphasise its height. When looking at the character of other dwellings in the locality the immediate neighbour to the east is a two-storey property which uses half dormer style windows to the first floor to reduce its height and bulk and progressing further east along Lower Barnes Road the dwellings are predominantly 1.5 storey dwellings where the roof space has been converted to form a second storey – the proposal conflicts with this character.

6.3 Other Matters

- 6.3.1 The junction of Lower Barnes Road and Overton Road (and the southern most edge of application site) is 70 metres from the edge of the Conservation Area. The rear northern edge of the existing curtilage is 24 metres from the edge of the Conservation Area. The Conservation Area designation to the north of the site requires Officers to consider Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 and the need to preserve and enhance it. In order to accord with the requirements of policy MD13 a short Heritage Impact Assessment has been submitted. The Comments of SC Conservation (Historic Environment) state that on balance it is not considered that the proposal including the removal of the trees will result in undue harm to the character and appearance of the conservation area in this instance. On this basis the impact of the proposal on the setting of the conservation area is considered to be compliant in policy and statutory terms.
- 6.3.2 Representations received explain that the south-western corner of the site impacts on the visibility available for traffic turning out of Lower Barnes Road and joining the B4361 (Overton Road) because of the high hedging present which increases the likelihood of an accident, further that the proposal affords an opportunity to improve this situation. Whilst the removal of trees as part of the proposal could improve visibility at this junction, additional planting is proposed along the western boundary to screen the garage which could negate these improvements over time.
- 6.3.3 In terms of residential amenity is not considered that the proposals would result in a demonstrable impact upon the neighbouring dwellings amenity through overshadowing, overlooking or overbearing.

7.0 CONCLUSION

- 7.1** To conclude, whilst the principle of providing a replacement dwelling in the open countryside is acceptable, there are requirements set down in policy MD7a regarding the scale and design and it is considered that this scheme conflicts with these provisions resulting in significant harm. On this basis the scheme cannot be supported and the conflict with this and other identified policies results in a recommendation of refusal.

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

- 14th February 2023

Pendeford

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks
MD2 - Sustainable Design
MD7A - Managing Housing Development in the Countryside
MD13 - Historic Environment
SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

PREAPP/17/00302 Erection of 4 No. Dwellings PREUDV 7th August 2017
PREAPP/21/00096 Proposed replacement of existing dwelling formation of enclosed courtyard amenity space and walled garden. PREUDV 27th April 2021
22/00137/FUL Erection of one dwelling (following demolition of existing buildings) and detached double garage/garden store; modifications to existing vehicular access; to include removal of trees and change of use of land to domestic garden land REFUSE 25th May 2022
22/03472/FUL Erection of one dwelling (following demolition of existing buildings) and detached double garage/garden store, modifications to existing vehicular access, to include removal of trees (re-submission) PDE
SS/1/6562/O/ Erection of a dwelling REFUSE 8th April 1996
SS/1/1334/P/ Erection of an extension to existing dwelling PERCON 5th April 1991
SS/1987/486/P/ Erection of a dwelling and alteration to existing vehicular and pedestrian access. WDN 20th August 1987
SS/1980/277/P/ Erection of an extension to existing bungalow. PERCON 2nd May 1980
SS/1979/760/P/ Erection of an extension to existing dwelling. PERCON 8th February 1980

Appeal

SS/1/6562/O/ ERECTION OF A DWELLING. DISMIS 25th February 1997

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RFOY3WTDHTS00>

List of Background Papers (This MUST be completed for all reports, but does not include items

AGENDA ITEM

- 14th February 2023

Pendeford

containing exempt or confidential information)

Cabinet Member (Portfolio Holder) - Councillor Richard Marshall

Local Member

Cllr Vivienne Parry

Appendices

APPENDIX 1 - Conditions

- 14th February 2023

Pendeford

APPENDIX 1

Conditions

STANDARD CONDITION(S)

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

-

AGENDA ITEM



Committee and date

14th February 2023

Development Management Report

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

Summary of Application

<u>Application Number:</u> 22/05036/FUL	<u>Parish:</u>	Pontesbury
<u>Proposal:</u> Erection of one dwelling		
<u>Site Address:</u> The Waterfall Malehurst Minsterley Shrewsbury Shropshire		
<u>Applicant:</u> MR DAVID MCDONALD		
<u>Case Officer:</u> David Jones	<u>email:</u> david.jones@shropshire.gov.uk	

Grid Ref: 338342 - 306436



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- 14th February 2023

The Waterfall

Recommendation:- Refuse

Recommended reason for refusal

1. The replacement of the caravan with the proposed dwelling is not acceptable in policy terms under SAMDev Policy MD7a and the Type and Affordability of Housing SPD, and the proposal would contravene policies of restraint in the countryside and have a detrimental impact on the rural amenities of the area. The proposal is therefore contrary to Policy CS5, and CS6 of the adopted Core Strategy, SAMDev Policy MD7a, The Type and Affordability of Housing SPD, and the National Planning Policy Framework.

REPORT

1.0 THE PROPOSAL

- 1.1 This is a full planning application for the erection of a dwelling which would replace an existing static caravan on the site. The proposed dwelling is of two storeys and attains a height of around 7 metres to the ridge of the pitched roof. There is a single storey section to the dwelling which has a flat roof. The proposed dwelling has an external floor area of around 150m² having a length and width of around 13 by 10 metres. In the course of determining the planning application amended plans were submitted aimed at keeping the elevations simpler to reflect the local vernacular, incorporating render and dark tiles, additional information was also provided in the form of a landscaping plan and images of nearby houses.
- 1.2 There are two vehicular access points proposed to this development to the west and the east. The access to the west crosses land, which is within separate ownership, but it is understood that the owner of the land has been served notice as required under the planning act. Revised drawings have been submitted for both access points showing the distances of each of the visibility splays at each access.
- 1.3 Coal Mining Risk Assessment report has been received at the time of writing.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is situated in a countryside location at Malehurst. The public highway leading north to the site from the A488 is generally single carriageway. There is a static caravans and various other structures present on the application site. The perimeters of the site are defined by close boarded type fencing. There are other existing developments in the vicinity which are not dissimilar in character and appearance.

- 2.2 Planning permission under reference 16/04234/OUT was granted for a replacement dwelling on the enquiry site on 05.06.2017. When this planning application was being assessed there was a prefabricated dwelling present on the site which has since been demolished. Only the means of access was approved as part of the permission granted under reference 16/04234/OUT, with the appearance, landscaping, layout and scale of the development being reserved for later approval as part of the reserved matters. None of these reserved matters were submitted for the approval of the local planning authority within the time limits set out in the planning permission and on this basis the planning permission would appear to have lapsed.
- 2.3 Planning permission under reference 20/01729/FUL was subsequently granted on the site for the siting of a single mobile home for residential use. Condition 4 of this planning permission stipulated that the mobile home/lodge shall comply with the definition of a caravan in terms of size in accord with the Caravan Sites Act 1968. The delegated report on this application explains that it was considered that there was a lawful residential use on the site and on this basis the principle of residential caravan was considered acceptable, notwithstanding the location in the countryside in planning policy terms (where policies of restraint would normally apply for such developments).
- 2.4 The existing vehicular access from the public highway is shared with an adjacent site which abuts the north western and north eastern boundaries of the application site. There are two touring caravan present on this adjacent site which are understood to be used for residential purposes. A planning application under reference 22/01501/FUL was refused for the retention of these caravans on the 20.09.22 on number of grounds which included the sustainability credentials of the site and the inadequacy of the visibility in both directions at the vehicular access with the public highway (comprising the western access to the current proposal).

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1 The Parish Council and the local councillor support the planning application and as this differs from the officer recommendation the matter was reported to the agenda setting committee and it was decided that the matter should be considered by the planning committee.

4.0 Community Representations

4.1 Consultee Comment

4.1.1 Pontesbury Parish Council – Supports

The Parish Council is minded to support this application, although in open countryside. On balance the Parish Council feels that the benefits of this application outweigh the fact that it is outside the development boundary. The site has long-

established residential use and the house replacing a caravan will be a visual improvement, but we would like to see some small changes in design so that it fits in better with the local built environment. The landscaping of the site will bring visual and ecological benefits, but the application requires a detailed soft-landscape plan. The proposed dwelling will meet the specific housing needs of the family, especially the disabled child. The Parish Council propose the existing access be stopped-up and the new access adopted. It is not an isolated dwelling, but one of a scattering of 6 houses. Although flooding of the site is unlikely, we recommend that the floor be raised by 150mm.

Pontesbury Parish Council – Supports

The revised house design better reflects neighbouring properties. A further improvement to match Pontesbury architecture would be some feature window sills to the front elevation as shown in Pontesbury Neighbourhood Plan. The landscape plan will better reflect its countryside location and soften the existing fence boundary.

4.1.2 Councillor Nick Hignett - Supports

I support this application for the following reasons; Although classed as being in open countryside, this site has a long-standing history of being used for residential purposes. The caravan presently on the site has a permanent permission, but a dwelling would be more aesthetically pleasing, as well as more suitable for providing long-term accommodation during weather extremes. This is a strong consideration, as We have declared a Climate Emergency, and caravans are exceptionally difficult and expensive to heat or cool down. As a Council, we have a statutory duty to provide sufficient land to accommodate custom-build dwellings. This proposal would satisfy that need, including being able to accommodate adaptations to help with mobility issues as they arise in the future. I do acknowledge that these matters are due to present circumstances, which would change over time, whereas the dwelling is likely to be permanent. The site needs hedging on the roadside perimeter in the long term, to replace the fencing currently on site. Any outdoor lighting should be minimal to limit the intrusion to wildlife in the area, particularly as the site is adjacent to watercourses. Finally, if Planning Officers are minded to refuse this application, then I request that it be referred to Committee for determination, due to the unusual issues associated with this particular case.

4.1.3 SUDS – No Objections

Conditions and informatives are recommended.

4.1.4 SC Regulatory Services – No objections.

Further to comments by Environmental Protection recommending conditions to require a mine gas risk assessment should planning permission be granted, a

report by Sladen Associates; Coal Mining Risk Assessment; Proposed Residential Development, The Waterfall, Malehurst, Shropshire; prepared for David McDonald; January 2023; Job No. 22 2536, has now been submitted to support this application.

The Coal Mining Risk Assessment by Sladen Associates, includes a Mine Gas Risk Assessment that has been carried out having regard to CL:AIRE - Good Practice for Risk Assessment for Coal Mine Gas Emissions; October 2021 (ISBN 978-1-905046-39-3).

The mine gas risk assessment has concluded that the risk to the development from mine gas is very low and therefore no special precautions are necessary with respect to mine gas. Accordingly, the conditions as originally recommended by Environmental Protection are no longer required.

4.1.5 **SC Affordable Housing**

No affordable housing obligations apply to the proposed development.

4.1.6 **SC Highways DC – No objection**

Shropshire Council as Highway Authority raises no objection in principle to the proposed dwelling. It is considered that the likely vehicular movements generated by one dwelling will not have a significant impact on the surrounding highway network. The proposed eastern access as detailed on Drawing LGA 417D04 REV A provides overall betterment to the existing situation and previous applications considered on this site.

It is noted that the applicant and their agent has previously confirmed that they would like to retain the existing western access to the site, but the eastern access will provide primary access to the site. Visibility for vehicles emerging from the western access is restricted and falls well below the minimum standard based on the surrounding highway conditions. On this basis, we would support the comments submitted by Pontesbury Parish Council that recommends that the existing western access is closed and access to the proposed dwelling is via the eastern access only. Vehicle parking for the dwelling is located to the eastern boundary and based on the landscape drawing the area to the west of the property is patio area and not suitable for vehicles, on this basis no vehicular access is required. In the interest of highway safety it is recommended that the existing western access is closed off and a consideration is given to attaching a planning condition to any permission granted that controls access to the site. It is noted that the western access falls outside of the owners control but does form part of the red line boundary. It is assumed on that basis it forms part of the application.

4.1.7 **SC Ecologist – No objections**

Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17. I have reviewed the information and plans submitted in association with the application and I am happy with the survey work carried out. The Ecological Impact Assessment carried out by Churton Ecology (October 2022) determined the site to be of low ecological diversity. However, the neighbouring stream provides suitable habitat for bats and otters. Mitigation measures have been recommended to protect these species, which will be strictly adhered to. No further surveys were recommended. Any external lighting to be installed on the building should be kept to a low level to allow wildlife to continue to forage and commute around the surrounding area. SC ecology require biodiversity net gains at the site in accordance with the NPPF and CS17. The installation of a bat box/integrated bat tube will enhance the site for wildlife by providing additional roosting habitat.

4.1.8 **Trees Team – No objection.**

There are a number of trees on land adjacent to the site, however, these are away from the area of development and as the site is set to hard standing and considerably compacted it is unlikely that the proposed development will impact any of these trees. The proposed development will not impact any significant tree.

4.1.9 **Coal Authority – No objection.**

The Coal Authority Response: Material Consideration

As you are aware, the Coal Authority objected to this application in our previous letter to the LPA dated 14 December 2022 as no Coal Mining Risk Assessment had been submitted at that time to assess the coal mining legacy identified at this site.

We welcome the submission of the Coal Mining Risk Assessment Report (22 2536, January 2023) prepared for the proposed development by Sladen Associates. The Report has been informed by an appropriate range of sources of historical, geological and coal mining information.

Having carried out a review of the available information, the report author informs that it is not considered likely that any unrecorded workings would be present at significantly less than 30m depth and as the thickness of the shallowest seam is only 0.45m concludes that the site is not at risk of surface instability and no intrusive ground investigations are required. However, recommendations have been made that foundations (re-enforced) should be designed for the proposed building.

Due to the history of mining in the area, we welcome the comments made that unrecorded mine entries cannot be discounted and therefore vigilance should be maintained during all site preparation and excavation works. In the event that a mine entry is found, the area should be made safe and the feature is assessed by a

competent person. The Coal Authority will also need to be notified if the mine entry relates to former coal mine workings.

The Coal Authority Recommendation to the LPA

The Coal Authority considers that the content and conclusions of the Coal Mining Risk Assessment Report (22 2536, January 2023) are sufficient for the purposes of the planning system in demonstrating (based on the informed professional opinion of Sladen Associates) that the application site is, or can be made safe and stable for the proposed development (NPPF paras. 183 and 184). The Coal Authority therefore withdraws its objection to the proposed development. However, further more detailed considerations of foundation design will be required as part of any subsequent building regulations application.

4.2 Public Comments

- 4.2.1 The planning application was advertised with a site notice and the publicity period expired on the 14.12.2022. No representations have been received at the time of writing.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The site is located outside of any recognised settlements and is therefore located in the countryside under the provisions of the development plan. Policy CS5 “Countryside and the Green Belt” of the Core Strategy does not support the provision of new open market residential development in the countryside.
- 6.1.2 Policy MD7a (Managing Housing Development in the Countryside) states that replacement dwelling houses will only be permitted where the dwelling to be replaced is a permanent structure with an established continuing residential use. Paragraph 2.22 of the Type and Affordability of Housing SPD (SPD) states “In the first instance, rural replacement dwellings outside of settlements will only be permitted provided that the existing building has established and continuing residential use rights and has not been abandoned”.
- 6.1.3 Planning permission was granted in 2017 for a replacement dwelling on the site in lieu of a prefabricated dwelling formerly present, but this planning permission lapsed in 2020. In 2020 following the demolition of this prefabricated building

planning permission under reference 20/01729/FUL was granted for a mobile home conforming to the definition of caravan. There is now an existing static caravan on the site and on this basis, it is understood that planning permission 20/01729/FUL has lawfully been implemented for a residential caravan. The site thus benefits from an established continuing residential use which meets one of the requirements of policy MD7a and the SPD.

- 6.1.4 The other requirement of policy MD7a is that that the replacement dwelling will only be permitted where the dwelling to be replaced is a permanent structure, the SPD refers to this requirement in terms of an existing building (being present). The prefabricated dwelling previously present would likely have amounted to a building which would have been regarded as a permanent structure/building under MD7a and the SPD, but this prefabricated dwelling has since been demolished. Planning permission under 20/01729/FUL was subsequently granted and permits a single mobile home for residential use complying with the definition of a caravan in terms of size in accord with the Caravan Sites Act 1968. A caravan amounts to the use of land only and its replacement with a dwelling would not meet the requirements in policy MD7a or the SPD as there is no permanent structure/building present on the site. The harm here is that that the proposed dwelling is being proposed in lieu of a static caravan, and its replacement with a permanent structure/building contravenes the general policies of restraint which apply in the countryside to protect the rural amenities of the area. The parish council take a different position and contend that as the site has a long-established residential use, such that replacing a caravan with a house will be comprise a visual improvement. As explained previously this position does not align with the provisions of policies MD7a or the SPD which require that there is a permanent structure/building present on the site.

6.2 Siting, scale and design of structure

- 6.2.1 This section of the report focuses on the requirement in policy MD7a that the replacement dwelling should normally be sited on the same footprint and should not be materially larger than the dwelling it replaces, albeit that in this case the dwelling would replace a caravan which is not a permanent structure/building. The supporting text of policy MD7a at paragraph 3.63 explains that the control of replacement dwellings in the countryside needs to be considered in conjunction with the general criteria in the policy in terms of visual, heritage loss and other impacts associated with the proposal. It goes on to explain that in the case of residential properties there is additionally the objective of regulating the size of replacement properties in order to limit the tendency towards the provision of larger dwellings in the countryside and to maintain a mix of dwelling types. Paragraph 2.23 of the SPD contains similar provisions.
- 6.2.2 The existing caravan is situated in very close to the western and northern boundaries of the site. The proposed replacement dwelling is roughly in the same position, but additional space has been provided between it and the boundaries of

the site. As explained previously a caravan is not a permanent structure/building so it does not have a footprint in the same sense as a building (being instead an use of land). Having regard to these considerations no objections are raised to the proposal in terms of these requirements as they are not wholly applicable in the circumstances of this case.

6.2.3 Planning permission under reference 20/01729/FUL was granted for the siting of a single mobile home for residential use. Condition 4 of this planning permission stipulated that the mobile home/lodge shall comply with the definition of a caravan in terms of size in accord with the Caravan Sites Act 1968. The proposal comprises a building as opposed to a mobile home/lodge and it is significantly larger than a caravan as defined in the Caravan Sites Act 1968. Being two storey with a height of 7 metres, a length and width of around 13 by 10 metres and having a floor area of around 150m². Taken together these considerations reinforce the earlier conclusion that the proposal will have a detrimental impact on the rural amenities of the area because of the scale and massing of the replacement dwelling in comparison with the static caravan which is being replaced.

6.2.4 The elevations of the proposed development have been amended with a view to addressing the comments of the parish council who have acknowledged these changes and but suggested that feature window sills are also added. The parish council also express a view that landscaping the site would improve the visual amenities of the area. It is acknowledged landscaping the site could be regarded as a betterment in environmental terms, but it is not considered that this is a matter which outweighs the more fundamental policy objections which apply to this proposal.

6.3 Other Matters

6.3.1 It is understood that the proposed dwelling is designed to provide a specific need for the applicant's family. The personal circumstances of the applicant are, however, rarely matters which should be attributed significant weight, this is primarily because planning permission runs with the land so any permission granted could also be developed by others.

6.3.2 The parish council state that the western vehicular access to the development should be closed up as part of any planning permission granted. SC Highways raise no objections to the proposed development but similarly recommended that the western access is closed such that access to the development is solely via the eastern access. The applicant's have confirmed that they are agreeable to closing the western access and this is therefore a matter that could be regulated by way of a planning condition.

6.3.3 Following the submission of a Coal Mining Risk Assessment the Coal Authority has confirmed that this is acceptable and has now removed its objection.

7.0 CONCLUSION

- 7.1 Whilst the site has a lawful residential use for the siting of a caravan it is not considered that its replacement with a dwelling is acceptable in planning policy terms given the provisions of policy MD7a and the SPD. It is also considered that replacing a caravan with a dwelling would contravene policies of restraint in the countryside and have a detrimental impact on the rural amenities of the area.

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.

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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.

- 14th February 2023

The Waterfall

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8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

MD7A - Managing Housing Development in the MD7A - Managing Housing Development in the Countryside

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

16/04234/OUT Outline application for the erection of a replacement dwelling to include access GRANT 5th June 2017

20/01729/FUL Siting of mobile home/lodge for residential use GRANT 8th July 2020

PREAPP/21/00518 Proposed erection of replacement dwelling PREUDV 14th February 2022

22/05036/FUL Erection of one dwelling PDE

- 14th February 2023

The Waterfall

SA/77/0075 Continued use of land as a residential caravan site, including the provision of hut. PERCON 28th April 1977
 SA/78/0948 Continue to site a residential caravan and hut. PERCON 31st October 1978
 SA/84/0954 Continue to station a temporary residential caravan with hut. (Renewal of previous approval S81/851/17/75 dated 3/11/81). PERCON 16th November 1984
 SA/81/0851 Continue to site a residential caravan with hut. (renewal of previous approval S78/948/17/75 dated 31/10/78). PERCON 3rd November 1981
 SA/75/0020 To site one residential caravan and hut. PERCON 25th March 1975
 SA/87/1231 Continue to station a temporary residential caravan with hut. (Renewal of previous approval S84/954/17/75 dated 16/11/84). PERCON 2nd June 1988
 SA/84/0955 Continue to use land as a residential caravan site. (Renewal of previous approval S81/801/25/77 dated 3/11/81). PERCON 16th November 1984
 SA/81/0801 To continue to use land as a residential caravan site. (renewal of previous approval S78/879/25/77 dated 31/10/78). PERCON 3rd November 1981
 SA/78/0879 To continue to use land as a residential caravan site. PERCON 31st October 1978
 SA/77/0043 Continued use of land as a residential caravan site. PERCON 28th April 1977

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RKZRHOTDK8B00>

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 Richard Marshall
Local Member Cllr Nick Hignett
Appendices APPENDIX 1 - Conditions

AGENDA ITEM

- 14th February 2023

The Waterfall

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AGENDA ITEM



Committee and date
Southern Planning Committee
14th February 2023

Development Management Report

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

Summary of Application

<u>Application Number:</u> 22/03728/FUL	<u>Parish:</u>	Chelmarsh
<u>Proposal:</u> Erection of an affordable dwelling, detached garage and associated works		
<u>Site Address:</u> Proposed Affordable Dwelling To The North Of Glazeley Bridgnorth Shropshire		
<u>Applicant:</u> MR JACK GROVES		
<u>Case Officer:</u> Sara Jones		<u>email:</u> sara.jones@shropshire.gov.uk

Grid Ref: 370891 - 289473



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Recommendation: - Delegated Powers to Officers to Refuse, should the S106 not be completed by the 28.02.2023.

Refuse planning permission for the following reason:

1. The site is located in the countryside in an area not designated for new open-market residential development under Policies MD1 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan. Although it has the Local Planning Authority previously been considered suitable for an affordable dwelling to meet a specific and demonstrable local housing need, the applicant has failed to conclude within a reasonable timescale a Section 106 agreement to secure the development as an affordable home for occupation solely by qualifying local people in perpetuity. Consequently, no exceptional criteria for allowing a new dwelling in the countryside are in fact met, and the proposal is contrary to Policies CS1 and CS5 of the Shropshire Local Development Framework Adopted Core Strategy, plus SAMDev Plan Policy MD7a.

UPDATE REPORT

1.0 Purpose of report

- 1.1 This application seeks full planning permission to erect a single-storey 'affordable' dwelling for occupation by a named individual confirmed by the Council's Housing Enabling Officer as being in local housing need.
- 1.2 At a meeting on 18 October 2022, members of the Planning Committee resolved, contrary to the Officer recommendation, to approve the application and grant permission, subject to prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990, to secure the development as an affordable home for occupation solely by qualifying local people in perpetuity. Members agreed that there was an identified need for the dwelling and that they considered that the Uplands constituted a settlement which meant that the application was compliant with the relevant policies. A Section 106 legal agreement is essential because the site is in open countryside, outside any settlement designated for new open-market housing under the relevant Local Plan policies. However, the agreement remains un-concluded, and hence planning permission has not been issued. This update report therefore invites members to consider refusal of the application.
- 1.3 In addition, an additional representation has been received objecting to the application.
- 1.4 For background and ease of reference, the case officer's original committee report and recommendation are attached as Appendix A.

2.0 Section 106 agreement

- 2.1 It is understood that the requisite Section 106 agreement has been prepared but has not been concluded because of delays in transferring the ownership of the

land and registration at the Land Registry. Officers appreciate that this is to some extent outside the applicant's control, and that attempts to resolve the issue are ongoing. Ultimately, however, the fact that the matter remains unresolved after over 12 weeks gives rise to doubts over whether there is any serious commitment to the agreement being concluded. Thus, given that the development would be fundamentally unacceptable without the agreement, refusing planning permission is now recommended instead.

3.0 Additional Representation

3.1 An additional representation has been received which raised concerns about rubble, bricks, other loose building materials during the building construction, additional traffic using the access/highway safety, wildlife protection, the additional sewage arrangements required and lack of need for a dwelling.

3.2 The issue of need and access were considered by the Committee when they considered the application back in October 2022. The relevant consultees were content with the level of survey work undertaken (ecology) and appropriate conditions and informatives can be attached to ensure wildlife protection, and the satisfactory drainage of the site.

4.0 CONCLUSION

4.1 Whilst it is acknowledged that the applicant cannot produce proof of title until the land transfer has been completed by the Land Registry the failure to conclude the Section 106 agreement within a reasonable timescale makes it appropriate to now refuse planning permission on the basis that it has not been possible to secure the development as an affordable dwelling, which in turn means the application fundamentally conflicts with the relevant development plan policies.

APPENDIX A:

COPY OF OFFICER REPORT AND RECOMMENDATIONS CONSIDERED AT 18 OCTOBER 2022 SOUTH PLANNING COMMITTEE MEETING



Committee and date

Southern Planning Committee

18th October 2022

Development Management Report

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

Summary of Application

<u>Application Number:</u> 22/03728/FUL	<u>Parish:</u>	Chelmarsh
<u>Proposal:</u> Erection of an affordable dwelling, detached garage and associated works		
<u>Site Address:</u> Proposed Affordable Dwelling To The North Of Glazeley Bridgnorth Shropshire		
<u>Applicant:</u> MR JACK GROVES		
<u>Case Officer:</u> Sara Jones	<u>email</u>	: sara.jones@shropshire.gov.uk

Grid Ref: 370891 - 289473



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

Recommended Reason for refusal

1. The site is not part of or adjacent to a recognisable named settlement, there are only a limited number of dwellings nearby, most are separated from one another by agricultural land; cumulatively the built environment in the area is made up of sporadic, isolated pockets of development. The principle of the proposed development is therefore contrary to the objectives of the National Planning Policy Framework, Policies CS1, CS5 and CS11 of the Shropshire Local Development Framework Core Strategy, Policies MD3 and MD7a of the Shropshire Council Site Allocations and Management of Development Plan, and the Council's Supplementary Planning Document on the Type and Affordability of Housing.

REPORT**1.0 THE PROPOSAL**

- 1.1 This application involves the erection of a dwelling which is made under the Council's affordable housing single plot exception policy. The scheme indicates the erection of a bespoke single storey dwelling and detached double garage. The dwelling is proposed to be located within the corner of a field adjoining a access track which is also a bridleway, and currently serves five other dwellings at the Uplands and includes the applicants current home with his parents at Uplands Barn.
- 1.2 The foul drainage is proposed to be directed to a package treatment plan and suitably designed drainage field, and the surface water drainage directed to a suitably designed soakaway. The existing access track joins the B4363 which links the two market towns of Bridgnorth and Cleobury Mortimer and terminates at Woodlands Hall, a large Country house and former farm buildings converted to dwellings known as The Granary, The Coach House, The Dairy and The Sawmill.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site forms part of a field opposite Uplands Cottage and to the north of a small loose group of dwellings (The Uplands, The Uplands Barn, Inglewood and Woodlands Cottage). The site is accessed off a track which joins the B4363 some 200 metres to the north and terminates some 600 metres to the south at Woodlands Hall, a large Country house and former farm buildings converted to dwellings known as The Granary, The Coach House, The Dairy and The Sawmill. Beyond the site, in the wider landscape, are rolling agricultural fields and scattered smallholdings.
- 2.2 The site is located approximately 0.8 km from the nearest settlement of Glazeley to the south and the settlement of Chelmarsh which is located over a kilometre away to the southeast.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

- 3.1 The Parish Council supports the application contrary to the Officer recommendation and the Ward Member supports the application. The Principal Planning Officer in consultation with the Chairman of the Planning Committee have considered this application and have concluded that the application raises material planning issues and should be determined by Committee.

4.0 Community Representations

Consultee Comment

Chelmarsh Parish Council - No objections - felt it was a small, low impact quite sensitive dwelling.

SC Affordable Housing – Confirm that Mr Jack Groves has demonstrated housing need, strong local connections, and a need to live in the local area. Moreover, due to issues of availability he is unable to meet his own housing need within the parish without assistance from the policy.

SC Highways – No objection. Recommend informatives.

SC Rights of Way – Comments:

The application proposes access over a route that is recorded as a public bridleway that does not appear to carry public vehicular rights. The applicant is very strongly advised to satisfy themselves that they can demonstrate a sufficient vehicular right of access before committing further resources to the proposal. Neither the granting of planning permission, nor any associated obligations relating to the proposed access, either grant or imply the existence of any right for the benefit of the applicant to use that way with vehicles and it is a road traffic offence to drive a motor vehicle on a bridleway without lawful authority.

Although this bridleway is not directly affected by development the applicant must adhere to the following criteria:

- The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.
- Building materials, debris, etc must not be stored or deposited on the right of way.
- There must be no reduction of the width of the right of way.
- The alignment of the right of way must not be altered.
- The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged.
- No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation.

SC Ecology – Reconsulted – response awaited.

SC Ecology (23.08.2022) – Further information requested regarding Great Crested Newts.

SC Trees – No objection. Recommend conditions.

Comments:

Analysis of aerial GIS reveals the presence of a number of mature trees along the access track and near the entrance to the site. I would recommend a tree survey be undertaken by a competent arborist to identify and specify any facilitation pruning works that may be required and to propose suitable tree protection measures to avoid damaging or harming retained trees and hedgerows during implementation of any approved development. Ideally all construction (including installation of utilities and drainage infrastructure) will be located outside the root protection area (RPA) of nearby trees. Special design and construction methods may be required, subject to the advice of a competent arborist, where development is proposed within the RPA.

I also consider that the landscape and wildlife value of the site could be enhanced through a suitably designed landscaping scheme, incorporating the judicious planting of new native trees and hedgerow.

SC Environmental Protection – Notes that the site is within a Coal Mining Reporting Area (as defined by the Coal Authority). Recommend condition regarding a Mine Gas Risk Assessment.

SC Drainage - Recommend informatives.

Public Comments

Site notice displayed. No representations received.

5.0 THE MAIN ISSUES

Principle of development

Siting, scale, and design of structure/Visual Amenity

Impact on neighbours/residential amenity

Highways

Drainage

Natural Environment – Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site lies in the countryside where Shropshire Core Strategy Policy CS5 permits “limited local needs affordable housing” on exception sites that accord with Policy CS11, namely, in and adjoining recognisable named settlements.

6.1.2 The main issues raised by this aspect of the application are as follows:

- Does the applicant fulfil the requirements of the policy with regard to being in local housing need, and having strong local connections; and
- Whether or not the site accords with the requirements of the policy.

6.1.3 The Councils Housing Enabling and Development Officer has confirmed that the applicant complies with the policy requirements with regard to having strong local connections, and a need to live in the local area. Mr Groves is in partnership with his brother, and they run their livestock business from Uplands Barn within the parish. They currently have 400 ewes which 300 are in lamb. To ensure high welfare standards it is preferable for Mr Groves to live a short distance away from his livestock. From financial information provided to SC's Rural Enabler, Mr Groves is unable to purchase a suitable property in the immediate area due to cost and availability, this is due to a lack of lower cost smaller properties available locally at the time of his application, he is unable to meet his own housing need within the parish without assistance from the policy. The applicant therefore meets the local housing need elements of the policy.

6.1.4 In relation to the second issue, to meet the Councils policy sites must be in locations that demonstrably form part of or adjoin a recognised named settlement.

6.1.5 The main issue raised by this application is therefore whether the site forms part of or adjoins a recognised named settlement. This can be a finely balanced decision and the Councils SPD Type and Affordability of Housing (para. 5.13 – 18) advises that:

- *A settlement always comprises a group of houses occupied by households from different families.*
- *The group becomes a settlement due to the number and proximity of the houses in the group.*

Although a matter of judgment in each case, particularly for settlements where the number is small or where the houses are dispersed, for example strung along a road, it is the combination of these two factors that determines whether the dwellings constitute a settlement.

6.1.6 Additionally, the SPD advises that a settlement is a relationship between different properties accordingly *the limits of the settlement are defined by where the relationship peters out. This varies from settlement to settlement, depending on a number of factors. For example, a site a short distance from a loose-knit settlement may be considered "adjoining" while a similar distance in a tightly clustered settlement would not be. Larger settlements also have a wider "pull" or "sphere of influence" than small settlements, influencing the relationship between a site and the settlement.*

6.1.7 In this case Officers are of the view that the site is not sufficiently close to the named settlements of Glazeley, which is very modest but relatively tight knit or Chelmarsh which whilst a much larger settlement lies over a kilometre away to

the southeast as the crow flies or significantly further if travelling by road. Eudon Burnell whilst named it is dubious whether this would even constitute a settlement, is also located some 0.8 km to the east. The site lies to the north of the loose collection of properties accessed off the unadopted access track to Woodlands Hall, which whilst occupied by different families, would not appear as a settlement for the purposes of the Councils exception site policy. Indeed the proposed site would occupy a relatively isolated position in relation to the existing dwellings in the vicinity and as such the development would represent an intrusion into the open countryside.

6.2 Siting, scale, and design of structure/Visual Amenity

6.2.1 Core Strategy policy CS6 seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character. SAMDev Plan policy MD2 supplements CS6, expanding on how this objective would be achieved.

6.2.2 Whilst it is considered that a dwelling in this location would represent an intrusion into the open countryside in this location, Officers acknowledge that the single storey nature of the design and materials proposed to be used (vertical timber boarding and corrugated plastic-coated sheeting) would be acceptable and would assist to minimise its impact. The internal floor area is under 100 sq metres which is within the policy requirements for an affordable dwelling. The proposed detached garage building would not be contrary to the current planning policies with respect to single plot affordable dwellings.

6.2.3 The site is relatively exposed and as observed by the SC Tree Officer a suitably designed landscaping scheme incorporating the judicious planting of new trees and hedgerow would assist in assimilating the development into the landscape. The submission of an appropriate landscape scheme could be conditioned should Members determine to grant planning permission.

6.2.4 As noted above the SC Tree Officer has also observed that there are a number of mature trees along the access track and near the entrance to the site, and that there may be a requirement for facilitation pruning and also advises that ideally all construction (including installation of utilities and drainage infrastructure) should be located outside the root protection area (RPA) of nearby trees.

6.3 Impact on neighbours/residential amenity

6.3.1 Policy CS6 and MD2 seek to ensure that development contributes to the health and well-being of communities, including safeguarding residential and local amenity. The proposed siting and design of the dwelling would not result in any undue overlooking or overbearing/overshadowing impacts on neighbouring properties.

6.4 Highways

6.4.1 The Core Strategy policy CS6 objective of achieving safe developments, in the context of highway safety, is echoed by paragraph 110 - 111 of the NPPF. The Council's Highways Team are content that the proposed access arrangements

would not be detrimental to highway safety, being safe and of a suitable standard for vehicles.

6.4.2 The site is accessed via a bridleway and whilst it is noted that other residential properties gain access from the bridleway it is unclear whether the development would have a vehicular right of access. This matter has been raised with the Agent and a response is awaited. The Planning Committee Members will be updated at the Committee regarding this issue and also the refuse collection arrangements.

6.5 Drainage

6.5.1 Core Strategy policy CS18 seeks to achieve a reduction in surface water run off by the use of sustainable drainage systems within developments.

6.5.2 The information submitted with the application indicates that the surface water would be disposed via a soakaway system and states that the foul drainage arrangements are to be disposed of by way of a package treatment plant. The Councils Drainage Team have been consulted on the application and raise no objection. It is therefore considered that an appropriately worded condition would ensure that an appropriate drainage system to serve the development is installed and flooding is avoided.

6.6 Natural Environment – Ecology

6.6.1 National guidance gives a duty to public bodies (including Local Planning Authorities) to ensure development does not harm protected species or its habitat. The NPPF emphasises that Local Planning Authorities should ensure development contributes to and enhances the natural and local environment including minimising impacts on biodiversity and providing net gains where possible. Core Strategy policy CS17 and SAMDev policy MD12 reflects the obligations placed by Wildlife Legislation to ensure the protection and enhancement of ecological interests.

6.6.2 The SC Ecology Team has identified the need for a great crested newt survey should be carried out given the proximity of ponds. Accordingly, the applicant has submitted an Ecological Impact Assessment which at the time of writing this Report is under consideration by the SC Ecology Team. The Members of the Planning Committee will be updated at the Planning Committee.

6.7 Other Matters

The site is located within a coal reporting area. Any new dwelling within such an area is considered by the Environment Protection Team to require a mine gas risk assessment to ensure the residential standards of living are acceptable in terms of public health. This has not been undertaken as part of this application but could also be conditioned and therefore again would not constitute a reason for refusal.

Should the Planning Committee resolve to grant planning permission the decision should be subject to a Section 106 Legal Agreement to ensure that the dwelling

remains an affordable dwelling in perpetuity.

7.0 CONCLUSION

7.1 The proposed single plot affordable dwelling on balance is not considered to be part of, adjacent to or within the sphere of influence of a recognisable named settlement given the distances from nearby settlements. As such a dwelling in this location would represent an intrusion into the open countryside in this countryside location and the proposal does not accord with the exception sites policy in this respect and therefore is not acceptable development in principle. Consequently, this application is recommended for refusal on the above grounds.

7.2 The design, scale, visual impact and neighbour amenity impacts are considered to accord with the relevant criteria of the outlined policies and are acceptable to not represent reasons for refusal individually.

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

Core Strategy and SAMDev Plan Policies:

CS1 - Strategic Approach
CS4 - Community Hubs and Community Clusters
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management
MD2 - Sustainable Design
MD7A - Managing Housing Development in the Countryside
MD12 - Natural Environment

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

PREAPP/16/00353 Erection of an affordable dwelling PREUDV 8th August 2016
PREAPP/20/00538 Erection of two affordable homes PREUDV 10th December 2020

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RGIKPYTDI7O00>

List of Background Papers Ecological Impact Assessment
Cabinet Member (Portfolio Holder) Councillor Richard Marshall
Local Member Cllr Robert Tindall

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AGENDA ITEM



Committee and date

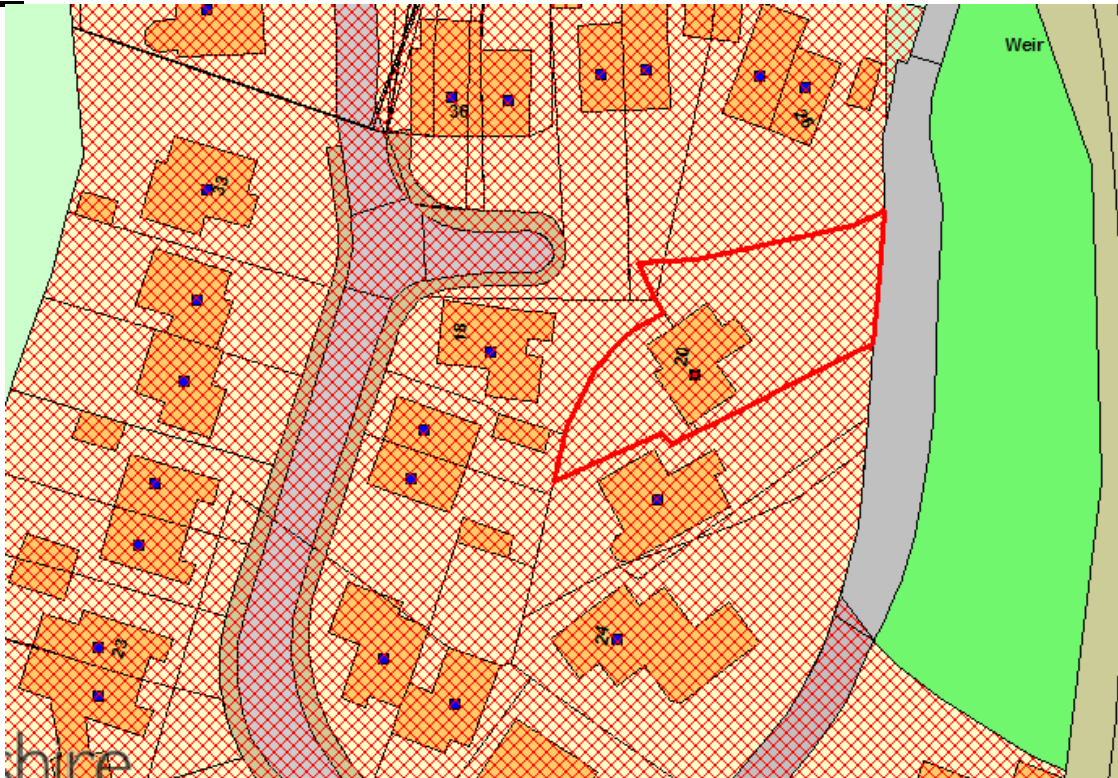
Development Management Report

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

Summary of Application

<u>Application Number:</u> 22/05696/FUL	<u>Parish:</u>	Minsterley
<u>Proposal:</u> Erection of two storey side extension		
<u>Site Address:</u> 20 Willow Park Minsterley Shrewsbury Shropshire SY5 0EH		
<u>Applicant:</u> Mr Gregory Pennington		
<u>Case Officer:</u> Nia Williams	<u>email:</u> nia.williams@shropshire.gov.uk	

Grid Ref: 337454 - 304787



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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 two storey side extension to the property known as 20 Willow Park, Minsterley.
- 1.2 The proposed works will include the conversion of the existing garage/ store room into a large kitchen/ dining room with separate utility and WC on the ground floor and a 4th bedroom with en suite above.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 20 Willow Park is a detached dwelling located in the village of Minsterley around 10.4 miles south-west of Shrewsbury town centre. The dwelling is set within the residential area of Willow Park on a moderate curtilage with neighbouring dwellings to the west, north and south elevations of the site.
- 2.2 One parking space will be lost to accommodate the proposed extension, however an additional existing parking space is located on the opposite side of the dwelling which will not be affected by the proposals.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

- 3.1 The applicant is ***related to/or known to*** an employee of Shropshire Council within the Place Directorate. Therefore, under the terms of the scheme of delegation to officers, as set out in Part 8 of the Council Constitution, the application should be referred to planning committee for determination.'

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.2 **Minsterley Parish Council** - No objection to this application.

- 4.3 **Highways** - To facilitate the proposed extension to the side of the house it would appear that the property will lose the 2 available parking spaces, one inside the existing garage and the other in front of the garage door.

If permitted the house will become a 4 bedroomed family home with one parking space. A single parking space shown on the submitted information is considered to be an inadequate provision and that a minimum of 2 parking spaces should be retained/demonstrated in connection with the proposed development.

Informative notes:

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

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

- 4.4 **ENVIRONMENTAL PROTECTION** - 20 Willow Park is located in the north-eastern part of the Willow Park estate and historically much of the ground that borders the stream was raised and associated with this raise was the importation of man-made materials including metal, brick, concrete rubble, clay etc., allegedly over many years during the 1960's/early 1970's. Made ground has been recorded to depths in excess of 3 metres bgl in this area.

The former Shrewsbury & Atcham Borough Council (SABC) carried out a landfill gas investigation of the Willow Park development during the period 1993 to 1994, and correspondence with the developer at the time ascertained that some made ground was removed beneath the footprint of the houses to allow foundations to be built off hard ground, and properties constructed on suspended beam and block with a concrete over-screed (vented) and concrete rafts in the made ground areas. There is information to suggest that the original ground levels were reduced by as much as 1.5m in the area of 20 Willow Park, to reach a reasonable layer of hard ground.

Monitoring for the presence of ground gases by the former SABC did not record any detectable levels of methane, but carbon dioxide levels were slightly elevated. The developer also provided information on a ground contamination investigation that was undertaken in 1987 (pre-development) and it is reported that to manage identified risks from elevated inorganic contamination (arsenic and lead) in the made ground, that 0.75m of clean imported subsoil/topsoil should be imported to the site to be placed in garden areas where deep fill exists. This included 20 Willow Park.

Environmental Protection is not objecting to the proposed two-story side extension but having regard to the above, there are a number of factors that need to be considered and also to highlight potential geotechnical issues (outside of our area of expertise) in designing foundations in an area where potential made ground is located to a significant depth.

Unless evidence is provided to the contrary, Environmental Protection recommends as a minimum it would be prudent to classify the site as Characteristic Situation 2 (CS2) in accordance with BS8485:2015+A1:2019 – 'Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.

As a result, gas protection is required to achieve a Score of 3.5 (Table 4 of BS8485:2015+A1:2019). Details of how this will need to be achieved (Tables 5, 6 and 7 of BS8485:2015+A1:2019) and Verified (Table 8 of BS8485:2015+A1:2019) need to be provided.

In accordance with Table 7 (BS8485:2015+A1:2019) where a gas membrane is proposed, the membrane should be installed, inspected, and validated in accordance with the requirements of CIRIA C735 'Good practice on the testing and verification of protection systems for buildings against hazardous ground gas (2014)', for the gas protection points associated with installation of a gas resistant membrane to apply. The verification must be undertaken by a verifier independent of the installer.

Accordingly, the following must be included as conditions if planning permission is granted:

1. Development shall not begin until detailed specification of gas protection measures in to achieve a Score of 3.5 (Table 4 of BS8485:2015+A1:2019 - Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings) is submitted and approved by the Local Planning Authority.
2. Development shall not begin until a Verification Plan confirming how the installation will be tested in accordance with CIRIA C735 (Good Practice on the testing and verification of protection systems for buildings against hazardous ground gases 2014) is submitted and approved by the Local Planning Authority.
3. The verification of the gas protection measures must be undertaken in accordance with the approved Verification Plan. The Verifier must be independent of the installer (CIRIA 3.3.2).
4. On completion of the gas protection measures a Verification Report shall be submitted in accordance with CIRIA C735 (Good Practice on the testing and verification of protection systems for buildings against hazardous ground gases,

2014) and approved by the Local Planning Authority.

Reason: The site lies within 250 metres of a source of potential ground gas and the Local Planning Authority wishes to ensure that the site can be developed and occupied with adequate regard to environment and public safety. In addition, there is the potential that made ground material beneath existing topsoil/subsoil is contaminated with concentrations of inorganic contamination (arsenic and lead) that are not acceptable in a residential garden.

The following should be included as an informative:

Any arisings excavated for the purposes of foundations must be treated as contaminated and disposed of having regard to a duty of care. The health and safety of construction workers should also be considered when constructing foundations and they must be advised to adhere to good standards of personal hygiene, i.e., gloves should be worn during excavation works, no smoking or eating and if works are undertaken during dry periods, dust must be minimised.

5.0 Public Comments

5.1 At the time of writing this report, no representations had been received in response to this publicity.

6.0 THE MAIN ISSUES

6.1 **Principle of development**
Siting, scale and design of structure
Impact on amenities

7.0 OFFICER APPRAISAL

7.1 **Principle of development**

7.2 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.

7.3 Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible.

7.4 Section 12 of the National Planning Policy Framework; Achieving well-designed places, reinforces these goals at a national level, by requiring the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps

make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

- 7.5 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.

8.0 Siting, scale and design of structure

- 8.1 The proposed works will include the conversion of the existing garage/ store room into a large kitchen/ dining room with separate utility and WC on the ground floor and a 4th bedroom with en suite above. The proposed ground floor extension will be built forward of the existing garage/ store room and will measure approximately 4.3m in depth and 3.13m in width. An internal wall will be removed to create a large kitchen/ dining room with bi-fold doors opening out onto the rear garden

- 8.2 The first floor extension will be sited above the proposed ground floor extension and existing garage / store room and will measure approximately 7.46m in length, 3.19m in width, 5m to the eaves and 7.81m to the ridge.

- 8.3 The siting and scale of the proposed two-storey side extension is acceptable, and the scale is not excessive, and the proposals are subservient to the original dwelling. The design complements that of the original property and the extension will have very little impact as this will fall in line with the existing dwelling. The case officer has no concerns over the materials proposed which will match that of the existing property.

9.0 Impact of amenities

- 9.1 Due to the proposed extension being to the side of the property the proposals will be visible from the street scene, other dwellings within the street have carried out similar extensions and therefore the proposals are not deemed to have an impact on the street scene.

- 9.2 The dwelling is a detached property within a residential area with neighbours to the west, north and south elevations. No concerns are raised in relation to impact on neighbouring amenities. The dwelling shares a boundary with a neighbouring property to the south elevation, but there is adequate distance between the neighbouring dwelling and the proposed two-storey extension, therefore there will be no concerns on overlooking or overshadowing and will not have an impact on this neighbouring dwelling.

- 9.3 Regarding the comment received from Highways referring to the loss of parking

spaces. The case officer has been to the site and has concluded that 2 cars could be parked to the side of the property. Furthermore, the applicant has provided photos demonstrating that the existing side parking area can easily accommodate two vehicles.

10.0 CONCLUSION

10.1 The works are judged to be in scale and character with the original building and of no demonstrable harm in terms of visual impact. No significant harm is considered to arise to the neighbouring resident's amenity and the application therefore accords with the principal determining criteria of the relevant development plan policies including CS6 and MD2 and approval is recommended.

11.0 Risk Assessment and Opportunities Appraisal

11.1 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.

12.0 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.

13.0 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.

14.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

MD2 - Sustainable Design

CS17 - Environmental Networks

National Planning Policy Framework

RELEVANT PLANNING HISTORY:

22/05696/FUL Erection of two storey side extension PDE

SA/87/0962 Residential development of 25 No. houses comprising of 12 No. semi detached houses, 10 No. link detached houses, 3 No. detached houses with private garages and amendment to road layout to that previously approved. (Ref. Outline application No. S86/266/67/85 dated 5th June 1986). PERCON 17th December 1987

SA/86/1147 Erection of 41 No. dwellinghouses with private garages and the formation of new vehicular and pedestrian accesses and the construction of roads and sewers. (Details following outline S86/266/67/85 dated 5/6/86). REFUSE 12th March 1987

SA/86/0266 Residential development with alterations to and formation of new vehicular and pedestrian accesses. PERCON 5th June 1986

SA/87/0325 Erection of 39 No. dwellings with private garages, associated roads and sewers

-

20 Willow Park

and the formation of new vehicular and pedestrian access. (Ref. Outline application No. S86/266/67/85 dated 5th June 1986). PERCON 2nd July 1987
 SA/74/0391 Erection Of Two Dwellings REFUSE 26th November 1974
 SA/78/0184 Erection Of Dwellings, Formation Of Vehicular And Pedestrian Accesses And Alterations To Existing Vehicular And Pedestrian Accesses REFUSE 30th October 1979
 SA/76/0359 Erection Of Buildings And Use Of Land For The Parking And Maintenance Of Passenger And Goods Vehicles REFUSE 15th July 1976

Appeal

76/00642/REF Erection Of Buildings And Use Of Land For The Parking And Maintenance Of Passenger And Goods Vehicles DISMIS 22nd July 1977

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RN709NTD07V00>

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 Richard Marshall

Local Member

Cllr Nick Hignett

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, drawings and documents as listed in Schedule 1 below.

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. ENVIRONMENTAL PROTECTION

a. Development shall not begin until detailed specification of gas protection measures in to achieve a Score of 3.5 (Table 4 of BS8485:2015+A1:2019 - Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings) is submitted and approved by the Local Planning Authority.

b. Development shall not begin until a Verification Plan confirming how the installation will be tested in accordance with CIRIA C735 (Good Practice on the testing and verification of protection systems for buildings against hazardous ground gases 2014) is submitted and approved by the Local Planning Authority.

c. The verification of the gas protection measures must be undertaken in accordance with the approved Verification Plan. The Verifier must be independent of the installer (CIRIA 3.3.2).

d. On completion of the gas protection measures a Verification Report shall be submitted in accordance with CIRIA C735 (Good Practice on the testing and verification of protection systems for buildings against hazardous ground gases, 2014) and approved by the Local Planning Authority.

Reason: The site lies within 250 metres of a source of potential ground gas and the Local Planning Authority wishes to ensure that the site can be developed and occupied with adequate regard to environment and public safety. In addition, there is the potential that made

ground material beneath existing topsoil/subsoil is contaminated with concentrations of inorganic contamination (arsenic and lead) that are not acceptable in a residential garden.

Informatives

1. Any arisings excavated for the purposes of foundations must be treated as contaminated and disposed of having regard to a duty of care. The health and safety of construction workers should also be considered when constructing foundations and they must be advised to adhere to good standards of personal hygiene, i.e., gloves should be worn during excavation works, no smoking or eating and if works are undertaken during dry periods, dust must be minimised.

2. Informative notes:

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/application-forms-and-charges/>

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

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SCHEDULE OF APPEALS AS AT COMMITTEE 14 February 2023

LPA reference	22/01912/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs T Mulloy
Proposal	Erection of first floor extension over existing garage, installation of dormer windows to be formed in existing bedroom
Location	Riverside Cottage Cound Shrewsbury Shropshire SY5 6AF
Date of appeal	12.10.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	Allowed
Costs awarded	
Appeal decision	09.12.2022

LPA reference	20/00733/FUL
Appeal against	Conditions Imposed
Committee or Del. Decision	Delegated
Appellant	Nigel Siviter
Proposal	Application under Section 73A of the Town and Country Planning Act 1990 for a treatment plant replace existing septic tank and soakaway
Location	4 Crown Cottages Bagginswood Stottesdon Kidderminster Shropshire DY14 8NA
Date of appeal	13.12.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/00665/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Woundale Farm Cattery
Proposal	Application under Section 73A of the Town And Country Planning Act 1990 for the Erection of cattery (retrospective)
Location	Woundale Farm Woundale Bridgnorth Shropshire WV15 5PR
Date of appeal	18.07.2022
Appeal method	Written representations
Date site visit	
Date of appeal decision	Dismissed
Costs awarded	
Appeal decision	14.12.2022

LPA reference	22/02415/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs Wright
Proposal	Erection of replacement double garage with bedroom/home office above
Location	6 Hazler Road Church Stretton Shropshire SY6 7AQ
Date of appeal	16.12.2022
Appeal method	Fast Track
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/01216/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Adrian & John Wilks
Proposal	Outline application (all matters reserved) for the erection of 2No. detached and 1No. pair of semi-detached dwellings (re-submission)
Location	Proposed Residential Development Land To The East Of The Moors View Diddlebury Shropshire
Date of appeal	04.10.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	19.12.2022
Costs awarded	
Appeal decision	Dismissed

LPA reference	22/02425/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs S & J Husband
Proposal	Erection of one single storey dwelling with fully integrated solar roof; detached garage/car port
Location	Proposed Dwelling East Of The Tithe Barn Diddlebury Shropshire
Date of appeal	03.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/01171/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Anthony Walker
Proposal	Erection of storage building with roof mounted solar panels
Location	The Cottage Nordley Bridgnorth Shropshire WV16 4SX
Date of appeal	03.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/05109/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Michael Hunt
Proposal	Outline application (all matters reserved) for the erection of one dwelling with garage
Location	37 Baker Close Ludlow Shropshire SY8 1XJ
Date of appeal	03.01.2023
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/04561/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr James Simmonds
Proposal	Erection of 2no detached dwellings
Location	Proposed Residential Development Land North Of Bache Arms Off Coronation Street Highley Shropshire
Date of appeal	18.10.2022
Appeal method	Written Representations
Date site visit	06.12.2022
Date of appeal decision	13.01.2023
Costs awarded	N/A
Appeal decision	Dismissed

LPA reference	22/00848/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Sid Davies
Proposal	Application under Section 73A of the Town and Country Planning Act 1990 for the erection of a dwelling with all associated works
Location	Whitehouse Farm Barn Netherton Lane Highley Shropshire WV16 6NJ
Date of appeal	16.10.2022
Appeal method	Written Representations
Date site visit	06.12.2022
Date of appeal decision	13.01.2023
Costs awarded	N/A
Appeal decision	Dismissed

LPA reference	22/03008/PMBPA
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Graeme Manton Apley Estate
Proposal	Change of use from agricultural to form two residential units
Location	Proposed Residential Conversion Of Agricultural Buildings At Catstree Bridgnorth
Date of appeal	16.01.2023
Appeal method	Written representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/02781/VAR
Appeal against	Non determination
Committee or Del. Decision	n/a
Appellant	Eagle Mews Ltd
Proposal	Remove conditions no. 5(exterior details), 8(roofing materials), 9(roof windows), 10(masonry pointing), 11(render sample), 12(windows/doors/joinery), 13(historic features), 17(decorative scheme), 18(rainwater goods); and amend conditions no. 3(photographic survey), 4(work schedule), 15(finished appearance) - all pursuant of 21/02123/LBC
Location	The Eagles Inn 1 Harley Road Cressage Shrewsbury
Date of appeal	17.01.2023
Appeal method	Written representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/02113/VAR
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs Budgen
Proposal	Variation of Conditions No.3 and removal of Condition No.s 6 and 7 attached to planning permission 21/03663/FUL dated 17 February 2022
Location	Eaton House Eaton Constantine Shrewsbury Shropshire SY5 6RF
Date of appeal	11.11.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	23.01.2023
Costs awarded	
Appeal decision	Allowed

LPA reference	22/03024/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Prime Oak Ltd
Proposal	Erection of single storey oak framed extension to rear (modification to previously approved 22/01069/FUL)
Location	Green Oak Barn Faintree Bridgnorth Shropshire WV16 6RQ
Date of appeal	21.11.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	31.01.2023
Costs awarded	
Appeal decision	Dismissed

LPA reference	22/01781/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs Neath
Proposal	Erection of a wedding dress and accessories shop and associated access and car parking area
Location	Proposed Bridal Shop At Upper Meadowley Upton Cressett Bridgnorth Shropshire
Date of appeal	06.10.2022
Appeal method	Written representations
Date site visit	04.01.2023
Date of appeal decision	02.02.2023
Costs awarded	
Appeal decision	Dismissed

LPA reference	
Appeal against	
Committee or Del. Decision	
Appellant	
Proposal	
Location	
Date of appeal	
Appeal method	
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeal Decision

Site visit made on 2 December 2022

by S. Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 09 December 2022

Appeal Ref: APP/L3245/D/22/3304250

Riverside Cottage, A458 From Cound Junction to start of Shrewsbury Road Cressage, Cound, Shrewsbury, Shropshire SY5 6AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Tim and Mrs Mandy Mulloy against the decision of Shropshire Council.
 - The application Ref 22/01912/FUL, dated 20 April 2022, was refused by notice dated 5 July 2022.
 - The development proposed is the erection of a first floor extension over an existing garage and the installation of dormer windows to be formed in an existing bedroom.
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of a first-floor extension over an existing garage and the installation of dormer windows to be formed in an existing bedroom at Riverside Cottage, A458 from Cound Junction to start of Shrewsbury Road Cressage, Cound, Shrewsbury, Shropshire SY5 6AF in accordance with the terms of the application ref 22/01912/FUL, dated 20 April 2022, subject to the following conditions: -
 - i. The development hereby permitted shall begin no later than three years from the date of this decision.
 - ii. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - drawing 21.025.004B (Proposed floor plans)
 - drawing 21.025.005C (Proposed elevations)
 - drawing 21.025.006C (Proposed site plan)
 - drawing 21.025.001 (Location and existing plans)
 - iii. No development shall commence until details of the external materials to be used in the development have been submitted to and approved in writing by the local planning authority. The development shall thereafter accord with approved materials.

Procedural Matter

2. The proposed development is described in the application form as for a '*first floor extension over existing garage to form 2 bedrooms, 1 ensuite & 1 bathroom. New dormer windows to be formed in existing bedroom*'. The local planning authority (LPA) describes it as for '*the erection of a first-floor extension over an existing garage and the installation of dormer windows to be formed in an existing bedroom*'. I have used the latter description both in the banner heading and in the decision as it more precisely describes the proposed development.

Main Issue

3. The main issue is the effect of the development upon the character and appearance of the building and area.

Reasons

4. The appeal property is a former livery stable and granary, originally associated with the adjoining Grade II listed Riverside Inn. In the twentieth century, the stable and granary buildings were joined together by a single storey, flat roof, linked building which includes a domestic garage. The whole structure is now a dwelling.
5. The proposed development is to construct a second storey over the garage area to create two extra bedrooms. The alterations would also include two dormer windows to the west facing elevation and for roof lights facing in the direction of the listed building (LB).
6. The immediate area includes the three-storey listed inn, while to the west are relatively new, two-storey, brick-built houses.
7. The appeal building has had an historic association with the LB, though it is not itself separately listed, nor is it in a conservation area. However, the Council's Conservation Officer considers that the appeal building '*while not necessarily curtilage listed would likely represent non-designated heritage assets*.' The officer report notes that there are no objections from the Council's Archaeology (Historic Environment) section, though I accept that heritage matters refer not just to archaeological considerations.
8. Even if the appeal building were considered to be a non-designated heritage asset, its single storey, flat roofed link does not enhance the character or appearance of the overall building or the area which is characterised by pitched roofs of differing heights. In this regard, the addition of the proposed first floor extension with a pitched roof would add positively to the character and appearance of the building and area. I find that the proposed dormer windows, by their limited size and being set down below the ridge, would also form satisfactory additions, as would the proposed roof lights.
9. The proposed extension would not exceed the existing height of the former granary building and the overall effect would be to keep the dwelling, by its limited height and size, subordinate to the much more dominant inn, and in

keeping with the character and appearance of the building itself and that of the immediate area.

10. Therefore, I conclude that the proposed development would accord with policies CS6 and CS17 of the Shropshire Core Strategy 2011 (CS) which aim to protect the built and historic environment, taking into account local context and character, and policies MD13 and MD2 of the Shropshire Site and Management of Development Plan 2015 (SAMDev) which require development to protect the historic context including non-designated assets. Even if I were to take the view that the appeal building were a non-designated heritage asset, considering its historic use and/or appearance, I do not find that any harm would be caused to any such significance with reference to paragraph 203 of the National Planning Policy Framework 2021.

Other Matters

11. The appeal building is physically separated from the Grade II listed Riverside Inn and where its setting is characterised by open areas immediately around it, some given over to car parking. Until some years ago, there was an intervening listed building, but which has been demolished. The LPA in its officer report, considers that *'given the scale and nature of the proposal it is not considered that the setting would be adversely affected'*. I have no reason to disagree with this conclusion and accordingly find that the proposal would preserve the setting of the aforementioned listed building.

Conditions

12. I have imposed the standard time condition and a condition to ensure the development is in accordance with the approved plans in the interests of certainty. In the interests of good design, it is necessary to impose a condition relating to external materials. I have given the parties an opportunity to comment upon this matter and the appellants have agreed to it being a pre-commencement condition.

Conclusion

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

S. Hartley

INSPECTOR

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Appeal Decision

Site visit made on 6 December 2022

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2022

Appeal Ref: APP/L3245/W/21/3288193

Woundale Farm, Woundale, Bridgnorth WV15 5PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr SC Jones against the decision of Shropshire Council.
 - The application Ref: 21/00665/FUL, dated 5 February 2021, was refused by notice dated 4 June 2021.
 - The development proposed is described as erection of cattery.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. It appears that the cattery, for which planning permission has retrospectively been applied, has been constructed.
3. A new version of the National Planning Policy Framework (the Framework) was published in July 2021. The parties have had opportunity to comment on the engagement of this new policy document in relation to the appeal, and so will not be disadvantaged by my consideration of it.
4. The Council considers that the setting of the Grade II* listed Woundale Farm House and, subject to appropriate landscaping, the Grade II listed 6 Woundale would be adequately protected. I accept this, and that the setting of these listed buildings would be preserved.

Main Issues

5. The main issues in this case are:
 - The effect of the appeal scheme on the openness of the Green Belt, and whether it is inappropriate development in the Green Belt; and
 - If the appeal scheme is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Green Belt openness and whether inappropriate development

6. The appeal site is located in countryside, in the Green Belt. It reads on the ground as part of the rear garden of Woundale Farmhouse.

7. Policy CS5 of the Shropshire Core Strategy (CS) requires that, among other things, development is strictly controlled in accordance with national planning policies that protect the Green Belt. Also, Policy MD6 of the Shropshire Site Allocations and Management of Development Plan (SAMDev) requires that, among other things, development proposed in the Green Belt demonstrates that it does not conflict with the purposes of the Green Belt. As such, Policies CS5 of the CS and MD6 of the SAMDev are broadly consistent with the Framework.
8. Paragraph 149¹ of the Framework sets out that construction of new buildings in the Green Belt should be regarded as inappropriate, unless in a small number of exceptional circumstances. One such exception to inappropriate development in the Green Belt, under Framework paragraph 149(g) is redevelopment of previously developed land (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than existing development.
9. The Council Planning Officer's Report in 2021 indicates that by then the appeal site formed part of the domestic curtilage of the main farmstead dwelling, and that a hedge that appeared to more closely relate the site to the farmyard had been removed around a decade earlier. Also, the Council Officer's on-site observation of June 2016² indicates that there were small temporary moveable timber and wire poultry housing structures enclosed by a wire fence. This chimes with the description in the Council Planning Officer's Report of there previously being a modest poultry house, moveable poultry arks and broody coops, and post and wire netting enclosure on the site. Also, the appellant reports dimensions of previous poultry accommodation on this site. These suggest coops, chicken sheds, a duck house and a goose house with a combined volume of approximately 37cu.m, spaced out across the site.
10. Assuming the accuracy of the reported previous structures' dimensions, I find as follows in relation to Framework paragraph 149(g). The above depictions, together with the reported heights of the poultry sheds, coops and houses as ranging mostly between around 1m to 2m, with much of the compound being occupied by space around the various structures, indicate their likely noticeable relative lack of permanence, scale and bulk compared to the listed farmhouse buildings, and other large farmstead buildings in the vicinity. Moreover, the moving of the poultry coops, sheds and house off the site by forklift vehicle some years ago limited their time on site, and points to their movable nature. Therefore, it is likely that there was a noticeable lack of permanence, and thus an articulation of temporariness, in the character and appearance of the previous poultry accommodation on the appeal site.
11. Various caselaw³ together establishes that, among other things a structure's mobility and lack of attachment to the ground does not in itself automatically mean lack of permanence. Nevertheless, I find that the identified combination of factors in the current appeal case is likely to have reduced the significance of presence of the previous poultry provision on the appeal site, and articulated a lack of permanence to it, such that the previous poultry accommodation structures on the site amounted to temporary buildings.

¹ Numbered paragraph 145 in the previous version of the Framework.

² As described in the Council's Appeal Statement letter, 28th July 2022.

³ *R (oao Save Woolley Valley Action Group Ltd) v Bath and North East Somerset Council* [2012] EWHC 2161 (Admin), and *Skerritts of Nottingham Ltd v SSETR & Harrow LBC* (No. 2) [2000] EWCA Civ 5569.

12. The second part of the Framework paragraph 149(g) exception test concerns whether, in this case the appeal development has a greater impact on the openness of the Green Belt than the previous poultry accommodation on the site. As set out in the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness has both a spatial and visual aspect, and matters relevant to its are subject to planning judgement. I find as follows regarding the impact of the appeal cattery on the openness of the Green Belt.
13. The appeal cattery building is a timber-clad building that is almost 26m long and 5m wide, with a green metal sloping roof up to approximately 2.8m in height. As illustrated in the Cattery Floor Plan and Elevations drawing WFW/PP/03, and in contrast to the approximately 37cu.m. total volume of the reported previous coops, chicken sheds, duck house and goose house, the appeal cattery building has a volume of approximately 319cu.m. As such, the cattery occupies a building volume more than eight times larger than the previous poultry coops, sheds and houses on the appeal site. Also, the appeal cattery building takes the form of one solid mass, compared to the more spaced out and smaller volume of previous reported structures on the appeal site.
14. Thus, the appeal cattery has a greater bulk and presence on this site in the Green Belt than the previous poultry provision. Given the cattery building's length and bulk, it has an adverse spatial impact on the openness of the Green Belt. That the extent of the previous post and wire netting fence was, according to the appellant, reportedly less than that of the cattery building footprint, does not alter this.
15. The following factors go some way towards moderating the visual impact of the cattery. The rustic style timber cladding of the single storey building has some assimilating effect, for example within the farmhouse garden. Also, hedging, garden vegetation and other buildings and rolling topography in the locality screen it from some viewpoints.
16. However, that said, seasonal leaf fall and pruning of hedges and vegetation is likely to lessen their screening effect. Furthermore, located on landform that rises up from the lane, the cattery's southern elevation, almost 26m long, has some prominence in various rural views to the south and south-east, from fields, and from the lane at a gateway to the neighbouring field. In its relatively elevated south-facing position, the cattery's southern facade catches the sun. This and the extent of fenestration on its southern elevation further draws the eye to the cattery. And its presence and usage is likely made more noticeable by illumination visible through its windows. Other elevations of the building are also noticeable from various viewpoints within the site. Consequently, the cattery building noticeably extends the built form of Woundale hamlet southwards, eroding the verdancy and openness of the countryside.
17. Therefore, the building's bulk, mass, appearance, and associated illumination and activity arising from it leads to the building having a greater impact on the openness of the Green Belt than previous development on the site. This causes moderate harm to openness. This harmful loss of openness is at odds with the fundamental Framework aim to keep Green Belt land permanently open. Furthermore, the combination of building mass, use, illumination and activity

results in its encroachment into the countryside. Therefore, it undermines the purposes of the Green Belt as set out in the Framework.

18. Thus, even if poultry on the appeal site was previously kept for domestic not commercial use, given the identified temporariness of previous buildings, and the appeal development's identified adverse impact on openness, the appeal cattery does not satisfy the required range of criteria in exceptions paragraph 149(g) of the Framework. Thus, it is inappropriate development which, by definition, harms the Green Belt.

Other considerations

19. The development provides for a small scale, farm diversification business that employs up to around two people and provides work experience opportunity, with associated supply chain and other socio-economic benefits in the area. The 'live-work' opportunity at the farm reduces the need to commute to work, with associated environmental benefit, albeit tempered by the environmental impact of customers relying on the private car to access this cattery. The appeal cattery provides 18 'luxury rooms' for up to two cats each, including potentially rescue cats, helping meet feline accommodation need in the area, year-round. However, the scale of benefit is modest and thus carries limited weight. That the cattery is in a quieter location, more separated from farm machinery movement, with associated greater potential business and customer appeal than the farmyard building conversion scheme⁴, does not alter this.

Whether very special circumstances

20. Policy CS5 of the CS requires protection of the Green Belt in accordance with national planning policy. As per the Framework, inappropriate development in the Green Belt should not be permitted except in very special circumstances, which will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
21. I have found that the appeal scheme is inappropriate development in the Green Belt, which is, by definition harmful. The appeal scheme also results in moderate harm to the openness of the Green Belt, and conflicts with one of the purposes of including land within it, in conflict with SAMDev Policy MD6. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt. The totality of identified harm to the Green Belt carries substantial weight.
22. On the other hand, the other considerations I have identified are of limited weight in favour of the appeal scheme. Therefore, the harm to the Green Belt is not clearly outweighed by the other considerations identified, and the very special circumstances necessary to justify the development do not exist. As such, the proposal is contrary to Policies CS5 of the CS, MD6 of the SAMDev and the Framework.

Other Matters

23. My attention is drawn to an appeal decision from 2012 about a cattery in the Green Belt (the 2012 decision). In this, the previous Inspector found that need for and economic benefit of the cattery weighed decisively in favour of the

⁴ Which was granted planning permission, Ref: 16/05401/FUL.

proposal. The 2012 decision differs from the current appeal case in several ways. It concerned another site elsewhere in the country, around ten years ago. Also, the following was absent from the 2012 decision. There was no acknowledgement of the substantial weight to be given to any harm to the Green Belt, no clear articulation of the weight attached to other considerations, and no clearly articulated comparison of the weight attached to the harm and other considerations. The absence of these elements from the 2012 decision does not negate the need to address them in the current appeal case. The above limits the equivalence of the 2012 decision to the current appeal case.

24. Also, a cattery scheme in the Green Belt, for which planning permission was granted by the Council in 2016⁵ (the 2016 scheme) differs from the current appeal case in various ways. It concerned replacement of a greenhouse building on another site, and did not involve decisive findings of inappropriateness and adverse impact on the Green Belt. This limits the equivalence of the 2016 scheme to the current appeal case. As such, the other decisions do not set compelling precedents to alter my decision. Moreover, the current appeal scheme has its own setting and circumstances, and I shall determine it on its own merits.

Conclusion

25. The appeal scheme is contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

William Cooper

INSPECTOR

⁵ Ref: 16/00090/FUL.

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Appeal Decision

Site visit made on 24 November 2022

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

Appeal Ref: APP/L3245/W/22/3304346

Land to the east of The Moors View, Diddlebury, Shropshire SY7 9JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Adrian and John Wilks against the decision of Shropshire Council.
 - The application Ref 22/01216/OUT, dated 10 March 2022, was refused by notice dated 10 May 2022.
 - The development proposed is the erection of 2 detached and 1 pair of semi-detached dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the banner heading above is taken from the appeal form rather than the application form, as it provides a more accurate description of the site location.
3. The application is in outline with all matters reserved for future consideration. I have had regard to an illustrative proposed site layout.

Main Issues

4. The main issues are:
 - whether the proposed development is in a suitable location for housing, having regard to the local development strategy for the area;
 - the effect of the proposed development on the setting of the Grade II listed Bache Mill House; and
 - the effect of the proposed development on the protected species of great crested newts.

Reasons

Suitable location

5. The appeal site is located within the corner of an agricultural field, bounded on 2 sides by the rear gardens of dwellings along The Moors, and the verge beside The Moors View carriageway. The field has housing to 3 sides, and further fields and garden land to its fourth.

6. The proposal is to erect 4 market dwellings, plus the indicative plan also identifies part of the site as a play area. Although outline permission is sought, the dwellings would need to be accessed via The Moors View.
7. The Shropshire Local Development Framework Core Strategy (CS) (2011) policy CS1 sets out the overarching settlement hierarchy for new development. In relation to Shropshire's rural areas, policies CS1 and CS4 specify that the rural settlement focus for new development and investment will be predominantly in Community Hubs and Community Clusters. The Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) policies MD1, MD1.1, S7.2, and S7.2(ii), list those Community Cluster settlements in Diddlebury Parish. The rural rebalance approach referenced in CS policy CS1 for rural areas to accommodate around 35% of Shropshire's residential development, is addressed within the rest of that policy and others, through the different housing allocation amounts for each area based on the overall spatial strategy.
8. The parties disagree as to whether the site is located within the settlements of Bache Mill or Diddlebury, for which the development plan does not include any settlement boundaries. The relevant development plan policy differs between the 2 locations, because Bache Mill is identified as a Community Cluster whereby infilling and conversions on small scale sites will meet local demand for housing, whereas Diddlebury is designated as countryside with more restrictions on development, and no policy suggestion for a target number of dwellings.
9. An Inspector recently considered this when dismissing a previous planning appeal for 12 dwellings on the site¹, and suggested that the site may be within Bache Mill. However, their decision was not definitive on this point. Furthermore, some evidence for that conclusion included details from a recent nearby planning permission², for which the Council has now provided more context, including that the site is located up the lane on the opposite side of the B4368 to the appeal site.
10. I agree with the Council that the B4368 road does act as a physical barrier between the 2 settlements, as well as providing a visual separation role. On my site visit I did not read Bache Mill and Diddlebury as a seamless developed settlement spanning across this. The new dwellings would be contiguous with properties along The Moors and The Moors View, which I found to have a strong relationship with those properties on the opposite side of the appeal site field along Mill Lane as part of Diddlebury village, rather than with those on the other side of the B4368. I am therefore satisfied that the site is within Diddlebury, and is thus in the countryside.
11. Policies S7.2(ii) and CS5 outline that the countryside is a location where new development will be strictly controlled in accordance with national policies protecting the countryside. Market housing is not encompassed within any of the development types specified for particular support by policy CS5, or similarly under any of the criteria in the SAMDev policy MD7a.
12. I acknowledge that the policy CS5 list is not exhaustive because the policy also sets out aspects which all countryside development should be judged against.

¹ APP/L3245/W/21/3272416

² 18/01465/FUL

It states that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted, where they improve the sustainability of rural communities by bringing local economic and community benefits. However, any benefits supported under policy CS5 must also be within the context of the development plan's spatial strategy as a whole.

13. Minor community benefits of the scheme would be the proposed play area, plus public access to part of the wider field which would be turned into a natural area, notwithstanding that the appellants have provided no further detail as to what this may comprise. The proposed site could also contain a number of features to attract wildlife and increase the ecological value of the land overall, and this would also be a minor benefit.
14. The appellant has put forward that the scheme would improve the sustainability of rural communities. This would be due to occupiers of the proposed dwellings using the school and the limited other facilities available in the village, with others able to be accessed via a regular bus service to nearby settlements. I acknowledge that these facilities would receive slightly increased patronage from 4 new dwellings, which would thus slightly contribute to enhancing and maintaining the vitality of rural communities. However, the Council's spatial strategy would be undermined by justifying housing on this basis. The intention overall is to limit housing in the countryside, including relatively strict policy criteria for allowing specialist housing types such as affordable homes or for rural worker houses. Allowing development for open market housing in the countryside provided that there is access to limited services nearby would clearly undermine this strategy, because such criteria could apply to a large area of the countryside outside of Community Hub and Community Cluster settlements.
15. The appellants reference that the proposal will deliver 4 dwellings with all the sustainably benefits that such housing provides, but do not further define what these benefits may be. I note the submitted Parish Council Housing Needs Survey (2019), but no clear link has been demonstrated with this document. Notwithstanding that windfall development is important to the spatial strategy including for development in the countryside, as highlighted in the appellants' discussion of SAMDev policy MD3, there is no dispute that the Council is able to demonstrate a 5 year housing land supply. Therefore 4 family dwellings would only make a very minor contribution towards housing supply and are only a minor benefit within this context.
16. I note that the dwellings are expected to adopt sustainable building codes, with local materials sourced where possible. However, this is not a public benefit of the scheme. I also find a greater overall supervision of the surrounding area to be only a neutral matter. I have no evidence that the use of the existing public highway for access or the presence of existing mains drainage would be a public sector cost benefit overall.
17. While the scheme may not occupy an isolated location for the purposes of the National Planning Policy Framework ('the Framework') (2021), paragraphs 12 and 15 of the Framework emphasises the statutory status of the development plan as the starting point for decision-making and for addressing housing needs. CS policy CS5 does not directly support development on the basis of it not being isolated.

18. In conclusion therefore, the scheme's benefits in totality are only minor, and are outweighed by the harm which would be caused because the proposed development would not be in a suitable location for housing, having regard to the local development strategy for the area. The proposal would be contrary to the Shropshire CS policies CS1, CS4, and CS5, the Shropshire SAMDev policies MD1, MD1.1, MD7a, S7.2, and S7.2(ii), and would also conflict with the Framework regarding appropriately addressing housing need.

Setting of Bache Mill House

19. I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the impact of the proposal on the special architectural and historic interest of listed buildings and their settings. Section 16 of the Framework also requires that great weight should be given to the conservation of designated heritage assets.
20. Bache Mill House is a Grade II Listed early 17th century timber frame house associated with the Bache Mill Corn Mill, located around 25m from the site boundary. Its significance derives from the building's reflection of the economic prosperity of agriculture in the Corvedale in the early 17th century. It also occupies a strategic position high up and close to the bridge beside the main carriageway.
21. Whilst Bache Mill House is now partly enclosed by development, it would originally have been within in a more open countryside setting, with the appeal site field being a remaining connection in this regard. The proposal would clearly fall within the setting of the listed building, and be visible both from Bache Mill House and from views encompassing it across the field. It would therefore cause harm, from an encroachment onto the open field setting.
22. I find that this is less than substantial harm, because the dwellings would be set against the backdrop and built form of the existing housing, and because 4 dwellings only occupy a relatively small part of the larger field. There would still be some separation from Bache Mill House, with no public views obstructed. The previous Inspector identified less than substantial harm for a larger scheme, and the Council also generally concurs with this view for this appeal scheme as does the appellants' Heritage Statement.
23. The Framework paragraph 202 advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The SAMDev policy MD13 reiterates this requirement. I have already set out above that the scheme's proposed benefits would only be minor, and I therefore find that they do not outweigh the harm.
24. In conclusion, the proposed development would cause less than substantial harm to the setting of Bache Mill House. It would therefore be contrary to the Shropshire Core Strategy policies CS6 and CS17, the Shropshire SAMDev policies MD2 and MD13, and paragraph 202 of the Framework. Together, these seek to protect and enhance the built and historic environment, including Shropshire's heritage and environmental assets.

Great crested newts

25. The Ecological Impact Assessment³ identified one pond located within 250m of the site which has the potential to support great crested newts. These are a protected species protected by law including under the Conservation of Habitats and Species Regulations 2017.
26. The appeal evidence includes a Great Crested Newt Survey⁴ based on physical surveys undertaken in April/May 2019, plus a 2022 Technical Report⁵ analysing the great crested newt environmental DNA in the water. This updated information did not identify any evidence of great crested newts in the pond. The County Ecologist and the Council are therefore now content that the species is unlikely to be impacted by the proposed development. I agree that the updated information provides me with sufficient conviction that great crested newts would be unaffected, and therefore will retain their required level of protection.
27. The Council still considers that the relevant ecological reports should be updated to identify any changes to the site conditions, recommended mitigation, compensation, and enhancements. However, the 2019 Survey states that no further survey, impact assessment or mitigation is required, and I am satisfied that the information is adequate.
28. In conclusion, the proposed development would not cause harm to the protected species of great crested newts. It would therefore comply with policies CS6 and CS17 of the Shropshire Core Strategy, and policy MD12 of the Shropshire SAMDev insofar as they relate to protection of the natural and ecological environment, assets, and biodiversity. The proposal would also comply with the Framework in respect of its requirements to protect priority species and biodiversity in Chapter 15.

Other Matters

29. The site lies near to the boundary of the Diddlebury Conservation Area, and so I have a statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The Conservation Area is centred around the main historic core of the village, with its significance derived from its mix of historic and contemporary buildings including a number of Listed Buildings. The Council has not raised concerns that the proposal would affect the character or appearance of the Conservation Area and its setting. I agree with this position, due to the site's distance, and visual and character separation from the Conservation Area boundary.
30. The boundary of the Shropshire Hills Area of Outstanding Natural Beauty (AONB) runs nearby along the north side of the B4366. Due to the separation distance and topography, and that views to and from the appeal site from the AONB are already impeded by existing residential properties and vegetation, I agree with the Council that no harm would be caused to the AONB or its setting.

³ Churton Ecology, December 2018

⁴ Churton Ecology, May 2019

⁵ Churton Ecology, April 2022

31. I acknowledge that the surrounding land has been developed for housing over many years, but this does not affect the current context for my decision.
32. Previous discussions between the main parties relating to potential affordable housing provision on the site are outwith the matters before me.

Planning Balance and Conclusion

33. I have found that the proposal would not affect great crested newts. However, it would not be in a suitable location for housing, and so would harm the local development strategy for the area, and would also harm the setting of Bache Mille House. I give this harm significant weight.
34. Taken together, the minor public benefits of the scheme identified above overall do not outweigh the harm. In conclusion, the scheme conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, and for the reasons given above, I conclude that the appeal is dismissed.

L Hughes

INSPECTOR



Appeal Decision

Site visit made on 6 December 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2023

Appeal Ref: APP/L3245/W/22/3304393

Bache Arms, High Street, Highley, Shropshire WV16 6JU

- 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 Simmonds against the decision of Shropshire Council.
 - The application Ref 21/04561/FUL, dated 20 September 2021, was refused by notice dated 8 March 2022.
 - The development proposed is for erection of 2no. detached dwellings.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the appeal are i) the effect of the proposed development on the Bache Arms Public House as a community facility, and ii) the effect of the proposal on the living conditions of future occupiers with particular regard to noise.

Background

3. Since the application was refused, the appellant has submitted another application¹ to address the reasons for refusal and also submitted a Noise Impact Assessment Report² (NIA). The NIA has also been submitted for this appeal. The Council refused the subsequent application for similar reasons as for the appeal proposal.

Reasons

Effect on a community facility

4. The appeal site comprises land that was used as a 'beer garden' associated with the existing and operating Bache Arms Public House (the 'PH') and part of a former bowling green. The site is to the north side of the PH and backs onto the main road through Highley with a roadside hedge. The PH itself fronts the main road through Highley, a hub settlement, on the corner with Coronation Street from where access to the pub car park is taken. Coronation Street is a residential street of terraced dwellings, some of which directly face or adjoin the existing pub car park. The site also lies within Highley Conservation Area (the 'CA').

¹ LPA application ref: 22/03602/FUL refused 30 September 2022

² Prepared by NoiseAir dated 22 July 2022

5. The proposal would involve erecting 2 no. two-storey detached dwellings with accommodation over three floors. Access to the site would be off Coronation Street and across the pub car park. This would be a shared access with the terrace of 4 dwellings that has been granted permission³ on part of the former bowling green, and which the Council advise is under construction. Each dwelling would have 2 parking spaces. The approved terrace and the proposed two dwellings would face each other, effectively creating a cul-de-sac or close with resident parking and landscaped front gardens. The proposed two dwellings have been designed to have a similar appearance to the terrace to create a cohesive design. The plans also show an indicative layout of parking and some landscaping that would be retained and provided for the pub, but this falls outside the red line development site.
6. Core Strategy Policy CS6 (Sustainable Design and Development Principles) is a broad-brush policy dealing with a range of sustainability issues. Amongst other things, it seeks to resist the loss of existing facilities, services or amenities unless provision is made for equivalent or improved provision, or it can be clearly demonstrated that the existing facility, service or amenity is not viable over the long term.
7. Core Strategy Policy CS8 (Facilities, Services and Infrastructure Provision) seeks to create sustainable, safe and healthy communities. One of the measures to do this is to protect and enhance existing facilities, services and amenities that contribute to the quality of life residents and visitors. The supporting text explains that as a predominantly rural area, the threat to closure or loss of facilities and services such as pubs, post offices, schools, village shops can affect the quality of life of residents.
8. On my visit I saw that security fencing had been erected along the northern edge of the pub car park and part of the bowling green land had been disturbed. The Council advise that the approved terrace is under construction although from my observations works looked nominal. However, I saw that the pub garden was still neatly laid to grass with tables and benches arranged on it.
9. I understand the appellant has sold off the pub garden to address short-term viability issues arising from the pandemic. Outside seating areas were sometimes used by some hospitality venues to provide customer eating/drinking areas during the Covid-19 pandemic when inside drinking was not permitted, to help continue trading. However, not all public houses have outside areas or need to have them in order to trade. No longer using the site or selling the land, does not necessarily mean the use ceases in planning land use terms. However, there would be nothing to stop the PH operator from making the garden unavailable to customers. Bearing in mind the apparently relatively recent sale of the land, and from my observations and from the evidence before me, I do not share the appellant's contention that the pub garden has been 'abandoned', which is a legal concept that would need consideration of evidence and a range of factors to establish.
10. The proposal would see the reduction in outside space available for use by the Bache Arms PH and its customers. What land would remain would principally be a car park with some small areas of nominal landscaping, including the grassed area on the corner of Coronation Street. Whilst the proposal does not involve

³ LPA application ref: 20/02493/FUL approved 28 October 2020

the provision of an equivalent or improved provision of outside amenity space, crucially there would be no loss or closure of the main community facility, namely the Bache Arms PH itself, which occupies an accessible location in the centre of Highley, and which the Council's policies seek to resist. Therefore there would be no conflict with Core Strategy Policies CS6 and CS8 whose aims are outlined above.

11. I note the appellants comments about inconsistent decision making by the Council and reference to examples of residential developments at the Talbot Inn in Ruyton XI Towns nearly 10 years ago, and more recently at The Harry Hotspur in Shrewsbury. I note in both examples the Council does not raise the issue of loss of amenity land for the public houses. In both cases I note the public houses were not to be closed. The example sites are in different settlements in different parts of the District with differing needs and contexts such that they are not directly comparable to the appeal proposal before me. Whilst consistency in decision-making is important, all decisions turn on their own particular circumstances based on the facts before each decision-maker at the time. In any event as I must consider the appeal proposal on its own merits.

Noise and living conditions

12. National Planning Policy Framework (the 'Framework') paragraph 185 states that new development should be appropriate for its location and in doing so avoid, amongst other things, noise giving rise to significant adverse impacts on health and quality of life. Paragraph 187 goes on to state that existing businesses should not have unreasonable restrictions placed on them. Where the operation of an existing business could have significant adverse effects on new development in its vicinity, the applicant should be required to provide suitable mitigation before the development is completed. Core Strategy Policy CS6 seeks, amongst other things, to ensure new development safeguards residential amenity.
13. The Council's Regulatory Services have raised concerns, but no formal objection, about possible conflict with noise from the PH, which is licensed for the sale of alcohol and the performance of live and amplified music until 1am, and that consideration should be made of this. Council's Regulatory Services have not provided any additional commentary in relation to this appeal.
14. There are existing residential properties opposite and adjacent to the pub car park, and bungalows the far side of the appeal site. However, the proposed dwellings would be in much closer proximity to the PH than any of these. I saw that tables and benches had been sited on a small, grassed area adjacent to the boundary fence that would be in close proximity to the side elevation of proposed dwelling Unit 2.
15. The appellant's NIA undertook noise monitoring for 5 days from 1-5 June 2022, with the monitoring point located at the rear of the building. Sound modelling also used proposed receptors on the proposed buildings. The NIA considered noise from road traffic on the road in front of the pub and Coronation Street, the pub garden, the condenser unit at the rear of the pub site, and noise breakout from doors and windows of the PH. During the monitoring some customers were seated nearby using the smoking shelter at the back of the PH. The NIA concluded that at worse case there would be a Medium/High Risk of adverse effect without mitigation.

16. The mitigation measures recommend insulating the dwellings to reduce noise levels. Particular window glazing and acoustic ventilation could also be installed to reduce noise levels to ensure that the required internal daytime and night-time noise limits are achieved. However, when windows are open, fully or partially, noise levels would be increased and exceed guideline levels. Further recommended mitigation would include relocating the amenity spaces for the dwellings away from the north west part of the site where they are currently proposed, but the plans do not show this. In addition, the NIA recommends the erection of a 2.5 metre high acoustic barrier along the roadside boundary to attenuate the noise breakout from the road. This is not shown on the plans as the existing hedge is maintained, but erecting a tall acoustic fence could well have visual amenity issues.
17. Whilst acoustic modelling has been undertaken, there is limited discussion of the live and amplified music at the Bache Arms PH. The NIA does not mention that live or amplified music was playing during the monitoring period, to enable readings and observations to be made. The NIA says that in the absence of noise events, alternative noise sources may be used adopted based on reputable sources. Nonetheless, there is no mention of the frequency, duration and type of music entertainment events, and no first-hand observations were made. Furthermore, there appears to be limited consideration made to the revised layout of amenity space and car parking for the Bache Arms PH and how the remaining spaces, particularly those in close proximity to the proposed dwellings might be used, such as the tables and benches I saw adjacent to the site boundary close to dwelling Unit 2. Whilst the PH may have intentions to install lobbies at all patron entrance and exit doors, the PH is outside the application site and so this cannot be controlled.
18. The NIA was submitted with the subsequent application that was refused. I have been presented with the Officer report for that application. It reports that the Council's Regulatory Services considered the submitted NIA but continued to express their concerns about the proximity of the development with regard to a venue with a licence for late-night music. Concerns were also expressed that any future installation of lobby doors at the PH could not be controlled and that acceptable internal noise levels in noise-sensitive rooms of the proposed dwellings would rely on future residents keeping windows closed.
19. I am therefore not satisfied that it has been sufficiently demonstrated that noise from the Bache Arms PH will not cause unacceptable adverse impacts on the living conditions of future occupiers, who will be in closer proximity than existing residents. The approved terrace of dwellings is further away than the proposed dwellings would be and is not immediately adjacent the PH, its car park and remaining amenity space. Accordingly, the proposal would not accord with Core Strategy Policy CS6 whose aims are outlined above.

Other Matters

20. Highley is identified as a key centre for the focus of development of services and facilities and the site lies within its boundaries. In such locations the Council has confirmed residential development is acceptable in principle. The Council raises no issue with the design of the dwellings or their relation to the street, or to any other technical matters such as access, parking, drainage.

21. I have had regard to the effect the proposed development would have on the CA as a designated heritage asset. The appellant submitted a Heritage Statement with the application that concluded the development would not harm the significance of the CA. The Council also refer to the Bache Arms PH being a non-designated heritage asset. The Council's Conservation Officer has not raised any concerns and the Council is satisfied that the proposal would not cause harm to the setting of the heritage assets. From my site visit observations and from the evidence before me I have no reason to take a different view.

Conclusion

22. Whilst I have found that the proposal would not result in an unacceptable loss of a community facility, it has not been sufficiently demonstrated that there would be not be an unacceptable adverse impact on the living conditions of future occupiers with regard to noise. Accordingly, I conclude the appeal should be dismissed.

K. Stephens
INSPECTOR

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Appeal Decision

Site visit made on 6 December 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th January 2023

Appeal Ref: APP/L3245/W/22/3300984

Whitehouse Farm Barn, Netherton Lane, Highley Shropshire WV16 6NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Sid Davies against the decision of Shropshire Council.
 - The application Ref 22/00848/FUL, dated 18 February 2022, was refused by notice dated 19 May 2022.
 - The development proposed is for a new dwelling comprising partially completed, previously approved stable block. New dwelling to remain as an annexe to the main dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters and Background

2. Planning permission¹ was granted on the appeal site for the erection of a timber building for 4 stables with hay store/tack room. The planning permission conditioned the building to be for purposes incidental to the enjoyment of Whitehouse Farm Barn, a converted former barn where the appellant and his family currently live.
3. On my visit I saw that the building was under construction and substantially progressed. The appellant confirms the 'stable' building has not been occupied by horses. The construction was of block work with external timber cladding. Internally stud-partition walling was being erected and openings had been glazed. The development is part retrospective. I also saw that the building has not been built in full accordance with the approved 'stable' plans or the 'Proposed Plans and Elevations', having a taller and steeper pitched roof. Nonetheless, I have dealt with the appeal on its planning merits and on the submitted plans before me.
4. Planning permission² was also granted retrospectively for the conversion of a triple detached garage into ancillary living accommodation for Whitehouse Farm Barn. This building sits opposite the proposed dwelling. The converted garage was intended for occupation by the appellant's daughter who needs additional care. I saw that this building was occupied.

Main Issue

5. The main issue in this appeal is whether the appeal site would be a suitable location for housing with regard to local and national policies.

¹ Local Planning Authority ref: 15/03600/FUL granted 18 January 2016

² Local Planning Authority ref: 11/05413/FUL and 19/00052/FUL

Reasons

6. The appeal site is located in Netherton, a small, dispersed settlement, outside and south west of Highley. The site comprises the partially finished stable building within part of the yard shared with the converted triple garage. Access is via a shared drive off Netherton Lane that also serves Whitehouse Farm Barn and Whitehouse Farm.
7. The proposal seeks to complete the partially built building for use as a 2-bedroom dwelling for the appellant. I have been provided with only limited details of the appellant's condition and family circumstances. The appellant has been diagnosed with a debilitating disease that causes pain and often affects much older people. Using the stairs is a struggle, hence living on a single level would be more suitable. The appellant's daughter, who currently lives in Highley, would then move to live in Whitehouse Farm Barn with her family.
8. The Council has a suite of policies in its Core Strategy³ and SAMdev⁴ that set out its strategic approach to the location and distribution of housing. Core Strategy Policies CS1, CS3 and SAMdev Policy MD1 describe how growth is to be managed sustainably, with Shrewsbury, Market Towns or other Key Centres as the main focus for development and where balanced housing and employment development will be supported within the towns' development boundaries and on allocated sites. With its range of services and facilities, Highley is identified as a Key Centre.
9. In rural areas, a number of policies seek to control the pattern and distribution of housing. Core Strategy Policies CS1 and CS4 and SAMdev Policy MD1 describe how new housing development will be located predominantly in Community Hubs and Community Clusters. Netherton is not listed or identified as being a Community Hub or in a Community Cluster.
10. Outside Market Towns, Key Centres and Community Hubs and Community Clusters, Core Strategy Policy CS5 and SAMdev Policy MD7a together restrict new housing, unless it fulfils a number of exceptions and criteria. The proposal is not a conversion of a completed building; it is not put forward as a dwelling to house an essential rural worker and it is not a replacement dwelling. Nor has the proposal been put forward to help small economic or agricultural/forestry related development; community uses that cannot be located within settlements; affordable housing or other uses appropriate to a countryside location listed in the policies. SAMdev Policy MD3 will grant permission for sustainable housing development, other than on allocated housing sites, recognising the role windfall sites can play in the supply of housing. However, such development needs to have regard to the above policies. Core Strategy Policy CS6 and SAMdev Policy MD2 are broad policies that deal with sustainable design and development principles to ensure that development is right for its location.
11. The centre of Highley is about 900 metres to 1 kilometre from the appeal site, which the appellant considers to be within a reasonable walking or cycling distance, although it is at the upper limit of tolerance. Highley offers a range of services and facilities and I am informed that there are public buses, accessible

³ Core Strategy Development Plan Document – adopted 24 February 2011

⁴ Site Allocations and Management of Development Plan - adopted 17 December 2015

from the main road in Highley, offering hourly services to centres such as Kidderminster and Bridgnorth.

12. However, distance and proximity to services and facilities is not the only factor to consider. The nature and type of route to them will have an effect on their suitability and likelihood of them being used. Netherton Lane has no pavement, grass verges to walk on, or street lighting. It is also steep, rising up from the valley bottom and appeal site. This would present a challenge for many people to walk or cycle, and the appellant has a painful debilitating disease whereby using the stairs is a struggle. However, on reaching the top of Netherton Lane and the 'main' road into Highley there is a pavement one side of the road or the other, with dropped kerbs for crossing places, and the route is relatively level.
13. Nonetheless, I find the nature of Netherton Lane would not be conducive to encourage people to walk or cycle for day-to-day local services and facilities, especially in the dark or in inclement weather. As such, future occupiers would be reliant on the use of the private car to access the facilities, even if car journeys are relatively short. In this countryside location, the site is not sustainably located with regard to access to services, facilities and public transport.
14. The National Planning Policy Framework (the 'Framework') seeks to restrict isolated housing in the countryside, unless the development meets one of a number of identified forms of development. Even if the site was not isolated, due to its proximity to a number of other dwellings, it would not accord with the Council's spatial housing strategy. The Council's housing strategy is broadly consistent with the Framework, which states that to promote sustainable development in the rural areas housing should: be located where it will enhance or maintain the vitality of rural communities, seek opportunities to promote walking, cycling and public transport, and by limiting the need to travel offer a genuine choice of transport modes.
15. I have also had regard to nearby Whitehouse Farmhouse as a non-designated heritage asset, recorded on the Historic Environment Record as part of the Historic Farmsteads Characterisation Project where it is noted for having a loose farmyard. The principle of allowing a building in the courtyard has already been accepted by the granting of planning permission for the stable block. On this basis the Council's Conservation Officer did not raise any heritage objections, provided suitable external materials were used. However, whilst the building is of a simple design and the use of materials can be conditioned, the proposal would not be for an equine or farmyard type building, but for a dwelling with its associated domestic paraphernalia that would urbanise the countryside and detract from its character and appearance. This would not be altered even if the building was conditioned to be an annexe in association with Whitehouse Farm Barn.
16. In conclusion, the erection of a dwelling outside of Highley in the countryside would be contrary to the development plan, which is the starting point for any decisions as planning law requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise.
17. I am sympathetic to the appellant's wish for living accommodation on a single level, but I am not satisfied that the development proposal is the only way of

achieving this or that this justifies a departure from the development plan. Accordingly, the proposal would be contrary to Core Strategy Policies CS1, CS3, CS4, CS5 and CS6 and SAMdev Policies MD1, MD2, MD3 and MD7a, whose aims have been outlined above.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

K Stephens

INSPECTOR



Appeal Decision

Site visit made on 16 January 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2023

Appeal Ref: APP/L3245/D/22/3305460

Eaton House, Eaton Constantine, Shrewsbury, Shropshire SY5 6RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs M Budgen against the decision of Shropshire Council.
 - The application Ref 22/02113/VAR, dated 3 May 2022, was refused by notice dated 14 July 2022.
 - The application sought planning permission for the change of use from agricultural land to residential use and change in ground levels without complying with conditions attached to planning permission Ref 21/03663/FUL, dated 17 February 2022.
 - The conditions in dispute are Nos 3, 6 and 7. Condition 3 states that: *"The area shaded purple on approved plan SA-40168-BRY-00-PL-A-100K shall be reprofiled as indicated within 6 months of the date of this planning permission. The area shaded orange shall be planted with a mix of native species wildflowers and the existing hardstanding removed within the first planting season following the date of this planning permission"*. Condition 6 states that: *"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the following development shall not be undertaken: freestanding buildings or containers; new fences, gates or walls; hard surfaces; new accesses from a highway; use of land as a caravan site; stand alone solar equipment or wind turbines"*. Condition 7 states that: *"Notwithstanding any landscaping and planting indicated on approved plan SA40168- BRY-00-PL-A-100-K there will be no vehicular access between the residential land and the area to be planted with wildflowers indicated in the area shaded orange or between the residential land and the area retained in agricultural use. The existing hardstanding within the area shaded orange on the approved plan will be removed and planted with wildflowers within the first planting season following the grant of this permission"*.
 - The reasons given for the conditions are: *"This planning permission is granted on the basis that the existing unauthorised development is altered in accordance with the approved plans in order to protect residential amenity and to ensure visual amenity and the rural landscape" (condition 3), "To maintain the scale, appearance and character of the development and to protect the rural character and visual amenity" (condition 6), and To ensure biodiversity is enhanced and hard landscaping mitigated by the planting and upkeep of the wildflower area, to protect residential amenity from noise disturbance, to protect against highway safety issues arising from any consequent use of the existing residential access for agricultural vehicles" (condition 7).*
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural land to residential use and change in ground levels at Eaton House, Shrewsbury SY5 6RF, in accordance with plans SA40168-BRY-00-PL-A-0001-B and SA40188-BRY-00_PL-A-100-_K and the application ref 22/02113/VAR made 4 May 2022 without complying with conditions No 3, 6

and 7 set out in planning permission Ref 21/03663/FUL, granted 17 February 2022 by Shropshire Council, but otherwise subject to the following conditions:

- 1) Within 3 months of the grant of this planning permission, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site: a minimum of 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species and; a minimum of two artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), starlings (42mm hole, starling specific), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups). The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.
- 2) The development permitted here shall only be used as an integral part and incidental to the enjoyment of the existing dwelling known as Eaton House and shall not at any time be sold, let or occupied as a separate unit or used for commercial or business purposes.

Preliminary Matters

2. The Council has stated that the approved site plan reference SA40168-BRY-00-PL-A-100-E, within the decision notice, was a previous and superseded version of the site plan. This decision instead should have referred to plan reference SA40168-BRY-OO-PL-A-0001-B. The alternative plan shows the extent of both the redlined site and agricultural land within the applicant's ownership and is not materially different to the previous plan. I have therefore accepted the alternative plan without causing prejudice to any party.
3. The change of use has commenced, and the plot has been subdivided from the surrounding agricultural land by a post and rail fence.

Main Issue

4. The main issue is whether the disputed conditions are necessary and reasonable to protect the living conditions of the nearest residential occupiers from overlooking, the rural character of the area and highway safety.

Reasons

5. The appeal dwelling is a large traditional building that stands close to the highway. Its rear garden slopes gradually from the highway down to its lowest point adjacent to the site's rear boundary. The rear boundary is marked by a post and rail fence. The site is open to views of the countryside to the rear. However, the site is close to other residential plots and built form and is not unduly prominent within the wider rural landscape.
6. The area marked in purple is within the southwest corner of the rear garden. It follows the gradual slope of the garden. It appears to have been reprofiled in accordance with the requirements of condition 3 and enables this part of the garden to blend in with the surrounding rural landscape.
7. The orange area, as indicated on the approved plan, includes a short gravel track and grass areas. It is beyond a post and rail fence enclosure that defines

the rear and side boundary of the residential property. This area was partly being used to store trailers at the time of my visit, it has not been planted as a wildflower garden as required by condition 3.

Condition 3

8. The topographical plan submitted with the original submission shows that the purple area was raised in comparison to the local slope of surrounding land. This appears to have since been reprofiled and would no longer provide an adverse impact on the privacy of neighbouring occupiers. This therefore meets the first part of this condition. The second part of the condition requires the orange area to be planted with a wildflower meadow. However, whilst a wildflower garden would add bio-diversity interest to the site, I am unconvinced that this would be an essential requirement to off-set other areas of hardstanding proposed as part of the proposal.
9. Furthermore, a wildflower garden would not be necessary to protect the visual amenity of the 'orange area' or the surrounding rural landscape. Although the Council has sought the removal of the hardstanding through this area, this forms only a small proportion of the parcel and has only a limited effect on its rural character. Whilst recognising that the wildflower garden was proposed by the Appellant, this alone would not establish a clear need for it to be required by condition. As such, the first part of the condition is no longer necessary, and the second part would not pass the tests of the National Planning Policy Framework as being reasonable or necessary.

Condition 6

10. Condition 6 removes a broad range of Permitted Development (PD) rights. These rights are conveyed by the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO). Schedule 2, Part 1, of the GPDO relates to development within the curtilage of a dwellinghouse. The condition would prevent the Appellants' rights associated with Class E for outbuildings and Class F for hardstanding. Schedule 2, Part 2, 'minor operations' relates to the erection of gates, fences and walls. PD rights, associated with renewable energy, including solar equipment and wind turbines, are regulated by Schedule 2, Part 14 (classes A, B and H) of the GPDO.
11. The Framework advises that PD rights should not be removed unless there is clear justification to do so. It is unconvincing that the implementation of development under the referenced PD rights would affect the existing pattern of development. The PD right provisions include a number of limitations that would guard against harm occurring to the rural character of the area. Furthermore, the garden is relatively well enclosed to its sides. Whilst views of the site are open from the surrounding countryside, any PD works would be read in the context of existing built form. Accordingly, PD works could be accommodated within the site without causing undue adverse effects on the open rural character of the area.
12. Moreover, the Council has not explained what it means by a 'caravan site'. However, to use the appeal site as a commercial 'caravan site' would be unlikely to be incidental to the enjoyment of the dwellinghouse and would require specific planning permission. Accordingly, it would be unnecessary to remove such a right by condition.

Condition 7

13. The approved residential plot shares its northwest boundary with the highway. This boundary includes the sole vehicular access into the site from the main road. The location plan shows that the agricultural holding, to the rear of the application site, shares a boundary with Garmston Lane. This includes a field access into the Appellant's agricultural land.
14. It seems likely that most agricultural vehicles would enter the field from Garmstone Lane. The agricultural unit would be unlikely to require large vehicles or many vehicles. Furthermore, the access onto the main road is a good standard and provides clear visibility. Accordingly, any agricultural vehicles taken through the residential plot would be likely to be infrequent and would not harm highway safety.
15. The appeal site and its neighbouring residential plots are adjacent to agricultural land. Occupiers of residential plots within this rural location would expect to hear agricultural vehicles and activity from time to time. If agricultural vehicles were to pass through the appeal site, there is no clear reason to demonstrate why this would harm neighbour's living conditions. Consequently, a condition to prevent agricultural access through the site would be unnecessary and unreasonable.

Conditions

16. The advice in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have only limited information before me about the status of the other conditions imposed on the original planning permission (21/03663/FUL), I shall impose them. I have not included the previous conditions 1 and 2 as these relate to the commencement period and the implementation of the development to be in accordance with the approved plans.
17. The requirements of condition 3 relate to works that have been completed or are not necessary. As such this condition no longer serves a useful purpose and has not been imposed.
18. I have reinstated and renumbered conditions 4 and 5. In the event that the originally numbered condition 4 has in fact been discharged, this is a matter which can be addressed by the parties. The originally numbered condition 5 remains necessary to prevent the extended garden becoming subdivided from the main site in the interests of its open countryside character.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed, subject to the attached conditions.

Ben Plenty

INSPECTOR



Appeal Decision

Site visit made on 4 January 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/L3245/D/22/3307176

Green Oak Barn, Faintree, Bridgenorth, Shropshire WV16 6RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jonathan Stackhouse of Prime Oak Ltd against the decision of Shropshire Council.
 - The application Ref 22/03024/FUL, dated 28 June 2022, was refused by notice dated 24 August 2022.
 - The development proposed is erection of single storey oak framed extension to rear.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed extension on the character and appearance of the host dwelling.

Reasons

3. Green Oak Barn is a detached two storey dwelling that has been converted from a former barn. It is accessed from a long track and is set behind a gated entrance. The long linear building is constructed using a mix of facing materials including stone, brickwork and timber.
4. The building originally formed part of Upper Faintree Farm which I am told is recorded on the Historic Environment Record as part of the Historic Farmsteads Characterisation Project. I have not had sight of this record but have no reason to question the building's inclusion in it. Although the building is now a dwelling, its history is reflected in its form and appearance and so its character is that of a converted barn. This contributes to the significance of the building as a non-designated heritage asset.
5. The appellant points out that the dwelling is no longer linked to the farmstead and argues that the conversion works have eroded its original agricultural appearance. He also states that the works have created individual domestic plots with boundary fences and gates so that the property now appears as a separate individual private dwelling. However, although the conversion works have altered the appearance of the former barn and its relationship to Upper Faintree Farm, the building still retains the character of a former barn.
6. Planning permission has previously been granted for a rear extension¹; this permission is extant. The main difference between the approved extension and

¹ Planning Application Ref: 22/01069/FUL.

that proposed now is its roof. The approved scheme would have a flat roof whereas the current scheme would have a hipped roof with the addition of a roof lantern.

7. Whilst the approved scheme is simple in its design, the proposal would introduce a roof shape, a hipped roof, and a design feature, in the form of the lantern, that would be at odds with the simple form and massing of the dwelling. Although the building is no longer a barn, the proposal introduces features that would jar with the original building and its current appearance. The lantern in particular would constitute a domestic element that is alien to the historic use of the building.
8. Furthermore, the height of the roof and lantern would partly obscure an upper floor window and although the plans give only a two dimensional representation, the effect of this would be to further detract from the simple form of the rear elevation. The extension would be visible from the access track outside the entrance gates and its roof profile, particularly when seen against the gable elevation, would appear incongruous and unsympathetic.
9. The extension would be proportionally smaller than the existing dwelling and in terms of its size it would appear subservient. Likewise, the overall appearance of Green Oak Barn would still retain its original character in that there would be no alterations to its front elevation. However, the extension would include features, as explained above, that would stand out in stark contrast to the simple rear elevation of the property. The addition of these features would have a harmful effect on the significance of the non-designated heritage asset which I have afforded significant weight to.
10. I note the sustainable credentials of the proposal including the appellant's intention to use traditional oak framing obtained from responsibly managed renewal FSC certified forests and that traditional carpentry methods would be used. Also reclaimed roof tiles are proposed and the appellant intends to utilise water butts for the recycling of rainwater. However, whilst this sustainable approach would be consistent with the aims of the National Planning Policy Framework², this does not add sufficient weight to overcome the harm I have identified.
11. To conclude, the proposal would have a materially harmful effect on the character and appearance of the host dwelling. This would conflict with Core Strategy³ policies CS6 and CS17 which, amongst other things, seek to protect the built and historical environment. There is also conflict with SAMDev⁴ policies MD2 and MD13 which aim to protect and, wherever possible, avoid harm or loss of significance to designated or non-designated heritage assets in line with the objectives of the Framework in relation to the historic environment.

² Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021 (the Framework).

³ Shropshire Council – Shropshire Local Development Framework : Adopted Core Strategy, March 2011.

⁴ Shropshire Council – Site Allocations and Management of Development (SAMDev) Plan, Adopted Plan 17 December 2015.

Other Matters

12. I note that no harm has been identified with regard to any impact on neighbouring dwellings or the wider countryside. The absence of harm is a neutral factor in the overall planning balance.

Conclusion

13. For the reasons given above, and having regard to the development plan and all other considerations, I conclude that the appeal should be dismissed.

J D Clark

INSPECTOR

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Appeal Decision

Site visit made on 4 January 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2023.

Appeal Ref: APP/L3245/W/22/3302249

Upper Meadowley Farm, Lower Meadowley Farm Junction To Upton Cressett, Upton Cressett, Bridgenorth, Shropshire WV16 6UQ

- 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 Mrs Neath of H A Bunning & Son against the decision of Shropshire Council.
 - The application Ref 22/01781/FUL, dated 8 April 2022, was refused by notice dated 26 May 2022.
 - The development proposed is for the erection of a wedding dress & accessories shop, to be known as Bride's View, and an associated access and car parking area at Upper Meadowley Farm. The proposed building is a 13.63m (45ft) x 9.09m (30ft) steel portal frame building with a height to the eaves of 2.44m and a total height of 3.66m. Bride's View will be a bridal shop offering wedding dress sales, bride accessory sales, such as jewellery, shoes and hair pieces, and in the future, the addition of 'Mother of the Bride' wear.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would amount to sustainable development.

Reasons

3. The appeal site includes an area of land and an access track forming part of Upper Meadowley Farm. Meadowley Farm House is a Grade II Listed Building with barns within its curtilage. Most of the farm buildings lie to the west and a bungalow (Clidine), also part of the farm, lies to the south-east of the main body of the appeal site. The area is a rural one and access to the site is from a narrow winding road off which is the access to the farm and the appeal site.
4. The proposal is for a new building that would be used for the retail sale of wedding dresses and associated items. The intended use is specialist and the appellant points out that visits to the shop would be by appointment only and so quite different to shopping at a high street or town centre location. Furthermore, the appellant describes bridal shopping as more of an experience than a regular shopping trip and the type of products bought often require customers to transport high value dresses in large bags that would not be suitable to carry on public transport. Customers would therefore rely on driving to the bridal shop. Although reference is made by the Council as to the nature

of the rural roads and the lack of footpaths, the appellant has made it clear that she would not anticipate it likely that customers would arrive on foot.

5. Local Plan¹ Policy CS13 aims to promote sustainable patterns of development and indicates that most of the economic activity that takes place in Shropshire will be concentrated in Shrewsbury, the Market Towns and Key Centres. These policies reflect the objectives in the National Planning Policy Framework² to support a prosperous rural economy.
6. However, the proposed shop could contribute to the rural economy in that it would provide modest employment opportunities and provide an additional source of income to the farming business. The appellant also envisages that her business could support other local wedding and events related business in the area such as seamstresses, caterers, florists etc. Whilst this may be the case, a bridal shop is not directly related to a rural enterprise and therefore would not comply with the aims of Local Plan Policy CS13 which indicates that the emphasis will be placed on recognising the continued importance of farming for food production and supporting rural enterprise. Policies CS13 and CS5 support farm diversification but development proposals should be on appropriate sites that maintain and enhance countryside vitality and character and where they improve the sustainability of rural communities by bringing local economic and community benefits. Although there could be some benefits arising from this development, as described above, overall these would be modest.
7. The appellant states that the site would be accessible to a variety of people including those with accessibility issues due to its easy parking provision and the space available that would not necessarily be the case in an urban environment. Whilst this may be the case, it does not overcome the matter that the location of the appeal site is not accessible by alternative modes of transport and the business would rely on customers visiting by car, as already stated. This would conflict with Local Plan Policy CS6 which requires development proposals to be in accessible locations where the need for car based travel can be reduced. Although the appellant states that traffic generated by the development would not be significant, the development would still be dependent on customers driving or being driven to the shop.
8. The appellant lists a number of other 'out of town' wedding shops but although addresses are provided, I do not know the details of these locations or the reasons why they are located where they are and so I am unable to draw any comparison between the appeal site and these examples. The appellant has also referred to other businesses in the immediate area including a furniture retail business at Upper Meadowley Farm, which I did see the signage for on my site visit, and various holiday lets at Upton Cressett Hall as well as various events held at the Hall. However, I do not consider that holiday lets are directly comparable with the proposal before me as the types of business are quite different. Likewise, whilst I do not have any information about the open days, festivals, events etc held at Upper Cressett Hall, I do not consider that the use of the hall for these purposes is directly comparable to the erection of a new bridal shop in this location.

¹ Shropshire Council – Shropshire Local Development Framework : Adopted Core Strategy, March 2011.

² Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021 (the Framework).

9. I consider that the proposal would only make a small contribution to the rural community and its economic benefits to this rural area generally would likely also be only modest. The proposal would not amount to sustainable development but would place heavy reliance on customers utilising the car.

Other Matters

10. A condition is suggested by the Council restricting the occupation of the development to the appellant only. The appellant has indicated that this would be acceptable. However, this proposal is for a new building for use as a shop and so limiting permission to its occupation by appellant only would not be appropriate. Such a condition would not satisfy the tests set out in the Planning Practice Guidance³ or in the Framework. It would not be relevant to the development nor would it be precise as the building would still exist should the appellant cease to operate her business from here and if this occurred, the future use of the building would be uncertain. The appellant has also indicated that the proposal could be linked to the farm but no details as to how this could be achieved are suggested other than the personal link with the appellant referred to above.
11. The Council do not consider that the building would not harm the rural character and appearance of the area, which given the design of the building and its relationship to the existing farm buildings, I concur with. Furthermore, it is of sufficient distance from the nearby listed building, Upper Meadowley Farmhouse, with other intervening agricultural buildings as to have a neutral effect on the setting of the listed farmhouse and the curtilage of the listed barns. In this respects, the development would meet the satisfy requirements set out in the Act⁴. Also, there are no nearby residential properties where the occupiers would be adversely affected by the proposal. I also note that no objections to the proposal have been received to the proposal.
12. Notwithstanding that I have found no harm with regard to these other matters raised, these carry modest weight and do not overcome the harm I have found with regard to the main issue identified above.

Conclusion

13. For the reasons given above I conclude that the appeal should be dismissed.

J D Clark

INSPECTOR

³ Planning Practice Guidance – Published 6 March 2014 – Updated 23 July 2019.

⁴ Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 66 (1).

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By virtue of paragraph(s) 6a, 6b, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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