

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

Date: Thursday 27 April 2023

**Committee:**  
**Southern Planning Committee**

**Date:** Tuesday, 9 May 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](mailto: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  
Roger Evans  
Nigel Hartin  
Pamela Moseley  
Cecilia Motley  
Claire Wild  
Paul Wynn

Your Committee Officer is:

**Tim Ward / Ashley Kendrick**     Committee Officer

Tel:                             01743 257713 / 01743 250893

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# 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 11 April 2023

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 Tuesday 2 May 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 Proposed Solar Farm to the west of Berrington, Shrewsbury, SY5 6HA (22/04355/FUL) (Pages 5 - 36)

Erection of an up to 30 MW Solar PV Array, comprising ground mounted solar PV panels, vehicular access, internal access tracks, landscaping and associated infrastructure, including security fencing, CCTV, client storage containers and grid connection infrastructure, including substation buildings and off-site cabling

## 6 Land North of B4380, Buildwas, TF8 7DA (22/04666/DSA106) (Pages 37 - 46)

Discharge of S106 Agreement attached to planning permission reference 09/0029/FUL

## 7 West Bungalow Chirbury Montgomery Shropshire SY15 6BH (22/04842/OUT) (Pages 47 - 60)

Outline application for the demolition of existing bungalow and erection of 2No. dwellings (all matters reserved)

## 8 Barn To The Rear Of Brockhurst Church Stretton Shropshire (23/00820/FUL) (Pages 61 - 76)

Conversion of agricultural outbuilding to form one dwelling and installation of package treatment plant (resubmission)

## 9 Schedule of Appeals and Appeal Decisions (Pages 77 - 104)

**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 105 - 114)**

**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,30 May 2023



## Committee and Date

Southern Planning Committee

9 May 2023

## **SOUTHERN PLANNING COMMITTEE**

**Minutes of the meeting held on 11 April 2023**

**2.00 - 3.25 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) Nick Hignett (Vice Chairman), Andy Boddington, Richard Huffer, Christian Lea, Hilary Luff, Nigel Lumby, Tony Parsons and Julia Buckley (Substitute) (substitute for Caroline Bagnall)

### **122 Apologies for Absence**

Apologies for absence were received Councillors Caroline Bagnall and Robert Tindall

Councillor Julia Buckley substituted for Councillor Bagnall

### **123 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the Southern Planning Committee held on 14 March 2023 be approved as a correct record and signed by the Chairman.

### **124 Public Question Time**

The were no questions from members of the public.

### **125 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 7 Councillor David Evans declared that he was the local Member and that he would withdraw from the meeting and take no part in the debate or voting.

In respect of agenda item 7 Councillor Hilary Luff declared that she was the local Member and that she would withdraw from the meeting and take no part in the debate or voting.

**126 Land To The South Of Tong Forge, Shifnal, Shropshire (22/05521/FUL)**

The Principal Planner introduced the application which was an application under Section 73A of the Town And Country Planning Act 1990 for the change of use of land to Gypsy / Traveller Site consisting of four family pitches to include 4No. static caravans, 4No. touring caravans, 4No. amenity blocks with gravel drive and turning area (re-submission) and with reference to the drawings and photographs displayed, he drew Members' attention to the to the location, layout and elevations.

The Principal Planner confirmed that members had attended a site visit and drew attention to the information contained in the updated schedule of late representations which Members had before them.

Tony Downey spoke in favour of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

David Cooper spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Clive Roberts spoke on behalf of Tong Parish Council against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

Councillor Ed Bird, local Ward Councillor had submitted a statement in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, which was read by the solicitor.

Trevor Mennell, (Applicant), spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Members who had attended the site visit commented that the site was well screened and felt that the proposals would not have a harmful effect on the setting of the greenbelt.

A Member commented that whilst he recognised the personal circumstances of the family, he did not consider that they were sufficient to allow development in the greenbelt.

**RESOLVED**

That in accordance with the Officer recommendation Planning Permission be granted subject to the conditions set out in appendix 1 to the report and the additional condition regarding drainage set out in the update sheet

**127 Brown Clee, Abdon, Craven Arms, Shropshire, SY7 9HX (23/00354/FUL)**

The Principal Planner introduced the application which was an application for the erection of a two-storey extension, roof replacement to form first floor accommodation, facade alterations, fenestration alterations and internal layout alterations and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location, layout and elevations.

The Principal Planner confirmed that members had attended a site visit.

Councillor Chris Yarwood spoke on behalf of Abdon and Heath Parish Council in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees

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

Members commented that they felt that the design was sympathetic and would be an improvement on the existing building. They also felt that as the dwelling was set into the hillside there would be minimal effect on the setting of the AONB.

**RESOLVED**

That contrary to Officer recommendation planning permission be granted and that delegated authority be given to officers to apply conditions as necessary.

**128 Ashbrook House, 29 Shrewsbury Road, Church Stretton, Shropshire, SY6 6JB (23/00414/FUL)**

The Principal Planner introduced the application which was an application for the change of use of ancillary domestic outbuilding (annex) to holiday let accommodation. and with reference to the drawings and photographs displayed, she drew Members' attention to the to the location, layout and elevations.

The Principal Planner confirmed that members had attended a site visit.

Members agreed that the proposals were acceptable and it was **RESOLVED:**

That in accordance with the Officer recommendation Planning Permission be granted subject to the conditions set out in appendix 1 to the report

**129 Schedule of Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the southern area as at 11 April 2023 be noted.

130 **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, 9 May 2023

Signed ..... (Chairman)

Date: .....





Committee and date

**Southern Planning Committee**

**9th May 2023**

## Development Management Report

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

### Summary of Application

<b><u>Application Number:</u></b> 22/04355/FUL	<b><u>Parish:</u></b>	Berrington PC
<b><u>Proposal:</u></b> Erection of an up to 30 MW Solar PV Array, comprising ground mounted solar PV panels, vehicular access, internal access tracks, landscaping and associated infrastructure, including security fencing, CCTV, client storage containers and grid connection infrastructure, including substation buildings and off-site cabling		
<b><u>Site Address:</u></b> Proposed Solar Farm to the west of Berrington, Shrewsbury, SY5 6HA		
<b><u>Applicant:</u></b> Econergy International Ltd		
<b><u>Case Officer:</u></b> Grahame French	<b><u>email:</u></b> graham.french@shropshire.gov.uk	

**Recommendation:- Approve subject to the conditions set out in Appendix 1 and s106 legal agreement providing for off-site Skylark mitigation**

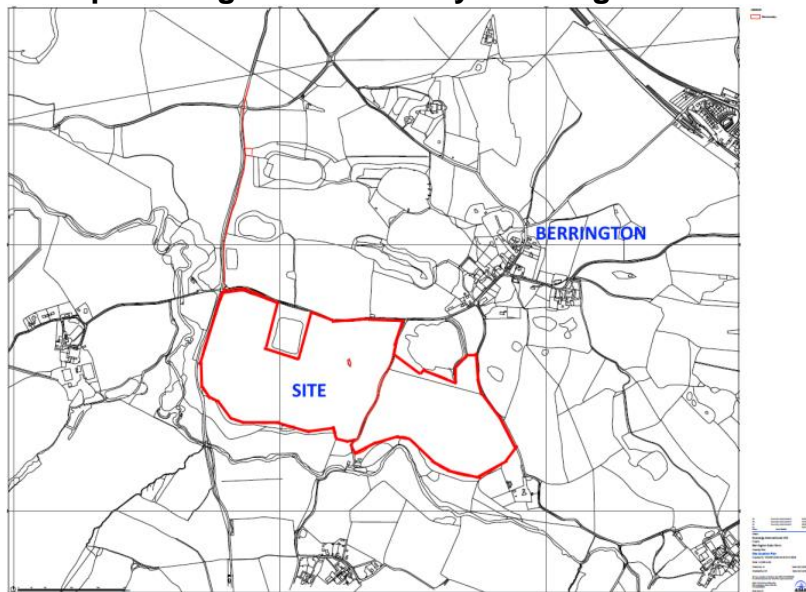


Fig 1 location

## REPORT

### 1.0 THE PROPOSAL

1.1 The application is for a solar generating facility with a capacity of 30 megawatts. The solar farm would consist of the following:

- Boundary Fencing
- Customer Sub-Stations
- MV Power Stations
- Fencing and CCTV Cameras
- Landscaping Works
- Internal Access Tracks
- Welfare Units
- Compound Area/Track Type 1
- Waterless Toilet
- Britcabs x 3
- Set Down Area
- Other associated infrastructure

1.2 The solar arrays would be laid out in multiple parallel rows running north-south across the site covering c80% of the site. The panels would track the sun throughout the day. Land between and beneath the panels would be used for biodiversity enhancements and seasonal sheep grazing.

1.3 Access to the site, during both the construction and operational phase, would be gained via the creation of a new access point off the unnamed highway (locally referred to as 'Shrewsbury Road') running along the western flank of the site.

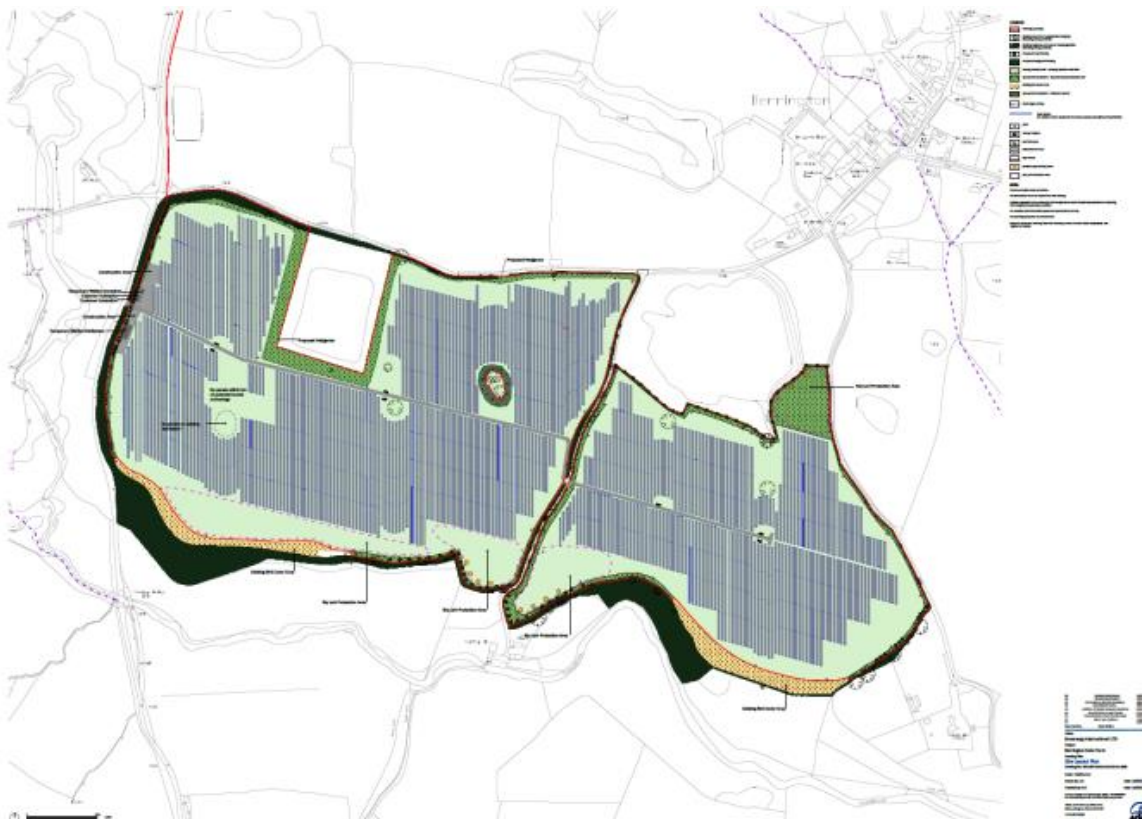
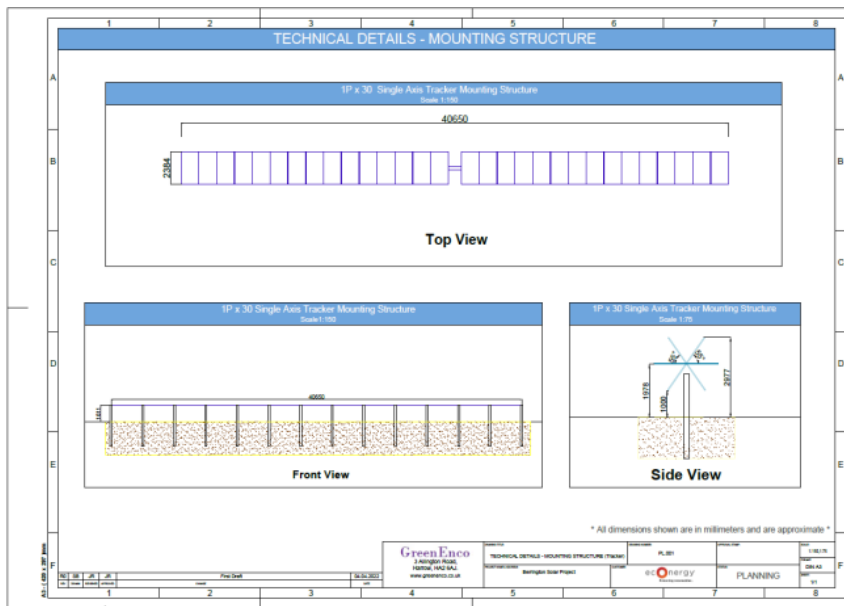


Fig 2 – Site layout



**Fig 3 – Panel plans**

- 1.4 The proposals incorporate a landscape mitigation plan including the following measures:
- Species rich grassland and ecological mitigation area.
  - Grazing areas for livestock beneath solar panels.
  - Visual screening and retention of existing trees
  - The installation of bird and bat boxes.
  - Inclusion of species rich grass land to support carbon sequestration on site.
- 1.5 The applicant states that the proposal has the potential to offset the average annual UK electricity consumption of approximately 7,000 houses per annum.
- 1.6 Construction would take 6 months. The site would have an operational life of up to 40 years, after which it would be decommissioned, and the agricultural land would be reinstated.
- 1.7 Construction and operation – It is proposed that impacts during the construction phase are controlled via a Construction Method Statement and Construction Environmental Management Plan. Once installed, the facility would be unmanned, being remotely operated and monitored. Operational access would only be required occasionally. At the end of the 40-year operational lifespan of the solar farm, the site would be restored back to full agricultural use with all equipment and below ground connections removed. The landscape enhancement measures would remain.
- 1.8 The following amendments have been made in response to feedback from planning consultations:
- The proposal has been set in from the boundary treatment adjacent to Cantlop Mill and Newmans Hall Cottage to preserve the amenity of residents in these properties.
  - Additional hedgerow planting has been provided along the northern boundary of the eastern parcel to provide additional screening of the site from Berrington.

- The main access point has moved from its initial position along the northern boundary off Cliff Hollow, to the unnamed highway along the western flank. This was done to ensure construction traffic avoids Berrington in the interests of highway safety.

## 2.0 SITE LOCATION / DESCRIPTION

2.1 The Application Site extends to 44.09 hectares (ha) of agricultural land and is located in an area of open countryside to the south-west of the village of Berrington. The Site is formed of two field parcels, separated by a single-track road.

## 3.0 REASONS FOR COMMITTEE DECISION

3.1 The application has been referred to the committee by the local member and agreed by the Head of Planning Services or the Team Manager (Planning) in consultation with the committee chairman or vice chairman to be based on material planning reasons.

## 4.0 COMMUNITY REPRESENTATIONS

4.1. Berrington Parish Council: No comments received.

4.2 MOD Safeguarding: No objection. The site is outside of the MOD safeguarding area.

4.3i Climate Change Task Force: Support. Full comments available online. Reference is made to the national and local policy context which supports renewable energy and decarbonisation. The climate crisis is a serious threat to the lives of millions of people globally, nationally and locally. The mitigation of greenhouse gas emissions and adaptation measures to build resilience is now urgent and essential to prevent the worst outcomes.

iii. It is recognised by the Climate Task Force that the development would contribute 30MW towards the approximate total of 5,000MW required to make the county self-sufficient in renewable energy. According to Greenhouse gas reporting: conversion factors 2022 – UK electricity this development would be expected to produce an approximate carbon saving of 5.8 ktCO<sub>2</sub>.

4.5 SC Conservation: A Built Heritage Statement has been prepared (Pegasus Group, August 2022). The report covers designated assets but does not address some of the non-designated assets. There are no additional specific comments on the Built Heritage Statement. Recommendations by the SC Landscape Advisor are endorsed (see 4.12 below).

4.6i. SC Archaeology: No objection. The Applicant has now submitted the Archaeological Geophysical Survey Report by Headland Archaeology. This has revealed evidence of an anomaly that is likely to comprise a previously unrecorded enclosure site in the western part of the proposed development site. On the basis of its morphology and comparisons with excavated examples in the county, this enclosure most likely dates broadly to Iron Age/Roman periods. A geophysical anomaly of uncertain origin, which

corresponded with an area of poorly drained ground, is present on the southern side of the enclosure and may represent an episode of later extractive activity/ quarrying.

- ii. The only other potentially archaeological geophysical anomalies identified are interpreted as relating to historic field boundaries or modern agricultural activity. The results of the geophysical survey have been used to amend the layout of the proposed development to provide an open area that would be kept free of solar panels, in order to ensure that the enclosure (including a 5m buffer around it) and the possible extraction pit to its south is preserved in situ. An amended Site Layout Plan (Drawing No. 1051487-ADAS-XX-XX-DR-PL-8000) and Landscape Masterplan (Drawing No. 1051487-ADAS-XX-XX-DR-L-8001) have been submitted to reflect this.
  - iii. With regard to Local Plan Policy MD13 and Paragraph 194 of the NPPF, officers now consider that Archaeological Geophysical Survey Report by Headland Archaeology, in combination with the amended plans of the site layout referred to above, provide sufficient information about the archaeological interest of the proposed development site to enable the planning application to be determined.
  - iv. The amended site layout will ensure that area of greatest archaeological potential - the possible Iron Age- Roman enclosure site - will remain undeveloped. A phased programme of archaeological work should be made a condition of any planning permission for the proposed development.
- 4.7i SC Trees: No objection subject to recommended conditions. RSK ADAS Ltd Arboricultural Planning Statement submitted with this application addresses the main arboricultural impacts on this site which have been addressed are:
- 1) Necessary removals to facilitate development: Highlighted in the submitted Arboricultural Planning Statement are two tree features which will require partial removal, a 15m section of G50 along with a 10m section of H24. Both of these are due to a conflict with a proposed permanent access into and around the site. Partial loss of these features is unlikely to have any significant adverse impact due to their low-quality grading ("C" category) and that any loss of amenity or biodiversity can be mitigated with proposed new planting, and therefore I have no objection to the removal of these identified trees and hedges.
  - 2) The presence of veteran trees and whether the protection measures proposed are in line with The Forestry Commission / Natural England Standing Advice on Ancient Woodland and Veteran Trees (which gives a position statement on and explains in detail with references the value of veteran trees and the need for them to be adequately protected during and assimilated into new development through good planning), NPPF advice on veteran trees Section 180c and local policies CS6, CS17 and British Standard 5837:2012 Trees in relation to design, demolition and construction: recommendations.
- ii. The site is positioned at an elevated level and tree cover to the centre of the two field site is fairly minimal with most being boundary trees and hedges, though a small number of important Oak trees are present including 11 Oak trees identified in the submitted survey as being veteran trees, either within or within 15m of the application

site boundary (T6, T7, T11, T20, T22, T28, T31, T42, T43, T44, T52). These trees are exceptionally valuable and one of their key attributes is the biodiversity value in which they provide. Therefore, additional tree protection fencing of a greater distance than for non-veteran trees will be required and is indicated on the Tree Protection Plan around T6, T7, T11, T12, G13 and T14 and T43 (located in the centre of the site) and around T34, T39, T44, T57 and T58 as their RPA's encroach into the site.

- iii. The Forestry Commission / Natural England Standing Advice on Ancient Woodland and Veteran Trees to increase buffer zones to the maximum of 15m radius root protection area has been applied to all the identified veteran trees on the submitted ADAS Tree Protection Plan.

4.8 SC Drainage: No objection.

4.9 SC Ecologist: There is satisfaction with regard to previously raised ecological matters but additional clarification is required on measures to mitigate against the loss of Skylark Habitat.

*Officer note: The applicant has provided further information on Skylark mitigation and proposes that this matter is dealt with under a s106 Legal Agreement. Any further comments from SC Ecology will be reported to the Committee.*

4.10 SC Environmental Protection: No comments received.

4.11 SC Highways No objection subject to recommended conditions and informatives (included in appendix 1). Review of submitted shows the impact on the highway as follows:

- Traffic generation is forecast at:- 19 two way HGV movements (approx. 9 -10 vehicles) between 7am and 6pm and 40 two-way construction worker movements (approx. 20 vehicles) between 6am-7am, 4pm-8pm.
- Construction period of 6 months
- Construction route for HGV route as per Figure 1 with traffic from the A5, A458 southbound for short distance, turn right onto B road for majority of route until new site access. The route is shown accommodating two lanes along its route.
- New Access to site from Shrewsbury Road with visibility splay to north 2.4m x 215m and to south 2.4m x 140m. The vis splay to the north is as per standard for speed limit of 60mph. The vis splay to the south is inadequate but TS states adequate for 48mph. Although a speed survey has not been provided this is considered acceptable. Traffic marshals are to be employed to manage reduced visibility.
- SPA analysis of vehicles accessing and egressing site acceptable. As above traffic marshals are to be employed to manage site access (section 3.1, TS)
- Provision of Traffic Management Measures (section 3.5 Traffic Management and TMP) are acceptable and will be required to be conditioned. It is understood these measures will be discussed with the contractor and highways authority prior to commencement of construction.
- Once site is operational, occasional site visits. Therefore, following provision of this information, HDC have no objection with regard to the proposed development however a number of conditions are recommended in order to minimise the impact of construction traffic.

- 4.12i. SC Landscape advisor: No objection. An updated LVA (Rev 2 January 2023) seeks to address the recommendation made in our October 2022 review that cumulative landscape and visual effects be included. The revised LVA contains a methodology for and an assessment of cumulative effects. The methodology is appropriate and proportionate, and in accordance with the best practice in GLVIA3, proposes that operational developments be included in the landscape and visual baseline.
- 4.13i. Councillor Claire Wild - Objection. (Full comments available online)

- The need for renewable energy is understood, but location and environmental concerns have to be fully considered.
- This site is part of the residue land retained from the sale of the Eaton Mascott Estate in the 1990s. This land has been let to a number of local farmers. Shooting continues to be an important part of the land holding.
- There ceased to be a farmyard or any other central feature to the land holding after the estate was sold.
- The site occupies some of the best agricultural land in Shropshire. 58% grade 2 with profiles of grade 1 and 30% grade 3a which again is best and most versatile land.
- This is not farm diversification
- Poor consultation with some properties misses.
- The photo montages submitted do not reflect the landscape impact and have been taken in a way which does not show residents' concerns
- Lack of interest and commitment to the community, the application is all about money.
- Not much has made about the close proximity of the Cound Brook to the proposed site. It is within 50 metres at Cantlop Mill and 100 metres from the south of the site next to my home. This whole area is part of the Cound Brook catchment area which is an important part of the Cound Brook catchment sensitive zone regularly monitored by Severn Trent and the Environment Agency. The Cound Brook is home to brown trout, herons who nest along the brook, again less than 100 metres away because it's on my stretch of the brook. Badger setts are well established, again on my boundary less than 20 metres from the site. The Cound Brook is host to a whole host of wildlife. Red kite nest nearby as do buzzards and otters have also been seen on a regular basis.
- Panels contain toxic material, a shooting exclusion zone should be considered
- Use of trunk roads would be a better way forward rather than agricultural land.
- Shropshire is the breadbasket of the West Midlands and there needs to be a balanced. The country as a whole was until recently self-sufficient in food production, now we only produce 50% of our food.
- Catastrophic impact on visual amenity for residents, walkers and visitors. Impact of glint and glare on view
- Inaccuracies in the application
- Industrialisation of the countryside.

#### Public Comments

- 4.14 The application has been advertised in accordance with statutory provisions and the nearest properties have been individually notified. At the time of writing there have

been 194 representations in support of the proposals, 107 representations objecting and 2 neutral. The majority of these representations for and against the proposals are from within Berrington Parish. The main issues of concern of objectors can be summarised as follows (Full documents are available online):

- Effect on biodiversity: negative affect the landscape and nature. Loss of Skylark population. Confusion regarding great crested newts. No mention of migratory swans and geese. No mention of dragonflies.
- Visual impact: Site will be visible for 12 months of the year from Cantlop. A tarmac, council-maintained lane runs N/S through the centre of the proposed development. It is used by a significant number of walkers, equestrians and cyclists. Loss of views. Users off this PRoW will find motorised solar panels looming up to five metres above them as they walk down the lane.
- Effect on agricultural land: Inappropriate use of BMV Farmland, particularly when the nation's food supply is coming under increasing pressure. National Farmers' Union, whilst they support the development of solar farms, have expressed concern over the use of BMV land.
- Questioning location: The proposed solar park would be the third solar park within 3miles of Cantlop, which is 4 miles south of Shrewsbury. The settlement of Cantlop, Cantlop Mill, Cantlop Bridge (Grade II listed) and the Cound Brook are of significant places of historic interest and provide leisure amenities, cycle routes, fishing and walking and should not be turning a rural area into an industrialised centre.
- Highways: The access is also on one of the fastest stretches of the main route between Shrewsbury and Acton Burnell, it is a school run, a cycle route and an active farming route. The speed limit is 60miles per hour. This cannot be acceptable either on grounds of safety or environment.
- Noise: Concern about intermittent noise impact from motors moving the panels.
- Flooding: In later years, the grazing of sheep under the panels can lead to the creation of sheep tracks between the panels, which again become compacted with loss of vegetation, and lead to increased run-off.
- Heritage: Concern about impact on local heritage assets including Cantlop Mill.
- Other: No weight should be given to supporters living outside the area.

4.15 Comments in support of the proposals raise the following points:

- Renewable energy benefits: This scheme could provide enough electricity to power around 7,000 homes. Contribution towards energy security, carbon saving targets and reduce energy poverty. Insufficient brownfield land.
- Biodiversity: Promotion of biodiversity.
- Visual amenity: Only a few views of the application site from the right of way, generally above the eyeline of walkers. Some properties in Cantlop will be affected and mitigation measures should provide screening. The site is not highly visible from the AONB.
- Agriculture: Benefits far outweigh the negatives in terms of the temporary, albeit long-term temporary, loss of production of arable land. National planning policy does not preclude development on higher quality land.

4.16i. Shrewsbury Friends of the Earth (support) -



- Climate change and energy security – Complacency is misplaced
- Environmental implications – Loss of agricultural land should be viewed in the context of the wider area, the land is not completely unproductive after development
- Visual Impact – Boundaries made up of hedgerows array will be largely obscured. Field boundaries will be enhanced.
- Ecology – Biodiversity net gain is significant. Reaching the goal should be a condition, including initial work required, ongoing management. There are justified concerns including Skylark habitat.

## 5.0 THE MAIN ISSUES

- Policy context
- Benefits of the proposed development
- Justification for the development (incl. agricultural land and energy need)
- Environmental considerations (incl. visual, ecology, highways, heritage, drainage)
- Other matters (incl. Timescale / decommissioning).

## 6.0 OFFICER APPRAISAL

### 6.1 Policy context

6.1.1 National policy: Paragraph 158 of the NPPF advises that ‘when determining planning applications for renewable and low carbon development, local planning authorities should:

- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- b) approve the application if its impacts are (or can be made) acceptable.’

This is a clear instruction in national policy that renewable energy development should be approved where impacts can be made acceptable.

6.1.2 Development Plan Policy: Policy CS8 supports ‘positively encouraging infrastructure, where this has no significant impact on recognised environmental assets, that mitigates and adapts to climate change, including decentralised, low carbon and renewable energy generation.’. Policy CS5 advises 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.

6.1.3 Policy CS8 positively encourages infrastructure that mitigates and adapts to climate change, ‘where this has no significant adverse impact on recognised environmental assets. Policy CS13 aims to plan positively to develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth and prosperous communities. Policy CS17 seeks to protect and enhance the

diversity, high quality, and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage, and ecological assets. The proposals would respond to climate change, but it also necessary to protect the rural environment.

6.1.4 SAMDev Policy MD2 (sustainable design) requires development to contribute to and respect locally distinctive or valued character and existing amenity. Policy MD8 (infrastructure) requires that development shall only take place where there is sufficient existing infrastructure capacity or where the development includes measures to address a specific capacity shortfall. Applications for new strategic energy, transport, water management and telecommunications infrastructure will be supported to help deliver national priorities and locally identified requirements, where its contribution to agreed objectives outweighs the potential for adverse impacts. This includes with respect to:

- i. Residential and other sensitive neighbouring land uses;
- ii. Visual amenity;
- iii. Landscape character and sensitivity, including impacts on sensitive skylines;
- iv. Recognised natural and heritage assets and their setting, including the Shropshire Hills AONB (Policy MD12);
- v. The visitor and tourism economy including long distance footpaths, cycle tracks and bridleways (Policy MD11);
- vi. Noise, air quality, dust, odour, and vibration;
- vii. Water quality and resources;
- viii. Impacts from traffic and transport during the construction and operation of the infrastructure development;
- ix. Cumulative impacts.

6.1.5 Policy MD12 (the natural environment) aims to conserve, enhance and restore Shropshire's natural assets, and to ensure that the social or economic benefits of development can be demonstrated to clearly outweigh the harm to natural assets including biodiversity and visual amenity. Policy MD13 (the historic environment) provides equivalent protection for heritage assets.

6.1.6 In considering the current proposals it is necessary to assess:

- The characteristics of the site and the nature of any impacts to the local environment, soils, landscape, heritage assets and amenities.
- Whether any identified impacts are capable of being satisfactorily mitigated.

6.1.7 If there are no unacceptable adverse impacts after mitigation has been applied and / or the benefits outweigh any residual impacts, then relevant policy tests will have been met and the development would be 'sustainable' when taken under the NPPF as a whole. As such, permission should be granted under NPPF paragraph 158. However, if any unacceptable adverse effects remain after mitigation and outweigh the potential benefits then the development would not be sustainable.

6.2 Benefits of the proposed development

6.2.1 Climate Change: The applicant states that the site would generate enough electricity to power approximately 7000 homes annually giving a CO2 saving of approximately 6000 tonnes per annum. This is consistent with calculations provided by applicants at other recent solar farm sites.

6.2.2 Ecological enhancements The applicant has produced a biodiversity metric which indicates that the proposals would deliver biodiversity net gain (BNG) of 123.5% in primary habitat and 76.4% for hedgerow units.

6.2.4 Economic benefits:

- Jobs being created directly or via the supply chain plus indirect benefits in additional worker spend on hospitality in the local economy.
- An additional £1.5m Gross Value Added (GVA) during construction and around £1.8m in operation over the lifetime of the project.
- The Proposed Development would result in business rates contributions to the Council of over £44,000 per year (based on an assumed £2k/MW, per annum), which could be invested in local services.

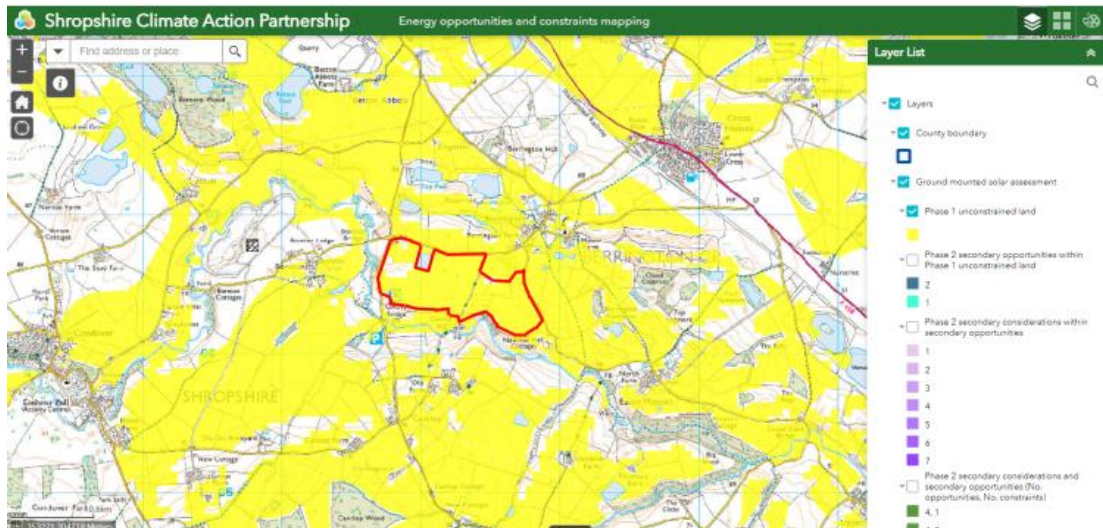
This is consistent with calculations provided by applicants for other recent solar farm sites.

6.3.1 Justification for renewable energy

6.3.2 One of the key factors determining the suitability of a site to accommodate solar PV development is its proximity to a point of connection to the local electricity distribution network. The applicant states that Shropshire now has very few substations with sufficient capacity to accommodate a utility scale solar farm like the one proposed.

6.3.3 When selecting a specific site, the Applicant has considered a range of criteria including:

- Proximity of a grid connection
- Availability of grid capacity to export, with no constraints on the grid connection
- The financial viability of grid connection costs
- Sufficient land area available for the installation
- A willing landowner
- A suitable site access for construction, operation, and decommissioning
- A site free of statutory or non-statutory landscape/heritage designations



**Figure 4 – Zero Carbon Shropshire Plan - Opportunity Mapping Study**

6.3.4 Figure 4 above confirms that the site is located in a solar opportunity mapping area identified by Zero Carbon Shropshire Plan (2021) based on a combination of relevant locational criteria including proximity of a grid connection. Whilst not a Planning Policy document this is a Council plan. The Applicant has considered the HLS land to the north within the landowner’s ownership; however this is more undulating and much of it is also north facing so would be unsuitable.

6.4 Agriculture / Best and Most Versatile Land:

6.4.1 Several neighbour objections were raised to the use of Best and Most Versatile (BMV) agricultural land and food security issues. An agricultural land survey advises that 22.5ha of the site is of Grade 2 quality (54.1%) and 12.4ha is of Subgrade 3a (29.9%). - Therefore 34.9ha (88.2%) of the land is of best and most versatile agricultural land. The remaining 4.9ha of surveyed land is of Subgrade 3b (11.8%). The applicant proposes that these soils are protected through implementation of a soil resource management plan. The applicant states that the temporary loss of arable productivity within the solar site will be mitigated by reversion of current Higher Level Stewardship land elsewhere within the farm unit to productive arable use.

6.4.2 Overarching Energy National Policy Statement (NPS) EN-1 states that on agricultural land (at paragraph 5.10.8): “Applicants should seek to minimise impacts on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5) except where this would be inconsistent with other sustainability considerations. Applicants should also identify any effects and seek to minimise impacts on soil quality taking into account any mitigation measures proposed. It also states. “The IPC [now the Secretary of State] should ensure that applicants do not site their scheme on the best and most versatile agricultural land without justification.

6.4.3 6.4.4 NPPF Paragraph 174 advises that ‘planning policies and decisions should contribute to and enhance the natural and local environment by’ amongst other matters b) ‘recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic

and other benefits of the best and most versatile agricultural land, and of trees and woodland’.

- 6.4.5 Paragraph 175 advises that Plans should: distinguish between the hierarchy of international, national, and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework;
- 6.4.6 Footnote 58 of Paragraph 175 states that ‘where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality’. However, Paragraph 175 refers specifically to plan making rather than decision-taking. As such, the NPPF does not require a sequential test to be applied when determining proposals affecting B&MV land (footnote 58).
- 6.4.7 The requirement to ‘recognise’ the ‘economic and other benefits of the best and most versatile agricultural land’ (Para 174) does not amount to an instruction to refuse all applications affecting B&MV land. There is no additional national guidance on the weight to be given to protection of B&MV land. It is a matter for the decision taker to weigh up against other matters such as renewable energy benefits as part of the planning balancing exercise.
- 6.4.8 National Planning Practice Guidance on renewable and low carbon energy (Department for Levelling Up Housing and Communities 18 June 2015) describes the specific planning considerations that relate to large scale ground-mounted solar photovoltaic farms. A local planning authority will need to consider amongst other matters that: "Where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays."
- 6.4.9 Core Strategy Policy CS6 describes that new development should make effective use of land and safeguard natural resources, including high quality agricultural land.
- 6.4.10 The applicant advises that the proposed solar farm is a temporary form of development which can be fully reversed. Agricultural production can also be maintained (though constrained) during the operational life of the solar park. Consequently, the development proposal would not result in the permanent loss or degradation of agricultural land.
- 6.4.11
- 6.4.12 The applicant advises that agricultural enterprise, like many others up and down the country, is experiencing economic pressures, with large parts of the wider landholding soon to come out of the Higher-Level Stewardship (HLS) agreement, resulting in a loss of revenue for the business and a need to restructure the farm for the years ahead. It is stated that the solar farm would provide additional revenue to support the wider farm, with opportunities to revert the land currently under HLS over to agricultural production, to offset the temporary reduction on the solar site.

- 6.4.13 An agricultural production assessment advises that the agricultural business is facing a challenging future and will need to adapt if it is to remain economically viable. It is therefore critical to the longevity of the farm, that a purposeful approach is taken now, whilst opportunities are available and not at the end of the transitional period in 2028. Income is falling due to:
- i. The agricultural transition
  - ii. The end of the HLS scheme and lack of detail about future funding streams
  - iii. Rising costs of agricultural inputs.
- 6.4.14 The assessment advises that to maintain productivity, the business must consider alternative land usages, whilst weighing up how to maximise the potential of the land coming out of the HLS scheme. It is stated that the proposed solar farm will not only provide an additional income stream to support the wider agricultural enterprise but will also allow areas around the SSSI to the north to be used less intensively. The proposal provides reassurance to the landowner that the farm business can remain active and viable for the operational life of the proposed solar farm. The assessment states that the 58 ha of wider landholdings, has the potential to offset a significant portion, if not all of, the loss of cereal output from the application site, through reinstating production to HLS land. In this respect, there is scope for the proposal, to have a wholly beneficial impact to both the output and the viability of the existing farm business. The proposal would also power 7,000 homes and contribute to the creation of a reliable, independent energy generation in the UK.
- 6.4.16 Whilst relevant policies and guidance advocate the use of poorer quality land in preference to better quality there is no absolute policy prohibition against the use of best and most versatile land in solar development. Instead, applicants must justify their choice of site and planning authorities must consider any impacts to B&MV land as part of the planning balancing exercise. The ability to graze sheep and other animals between the arrays is likely to be a material issue in assessing any temporary loss of B&MV land. The applicant states that the proposals would also facilitate more effective use of land which is rated as Grade 3b within the unit and would ensure that the landowner has a secure supply of income to reinvest in their agricultural business.
- 6.4.17 Whilst there would be a temporary loss of B&MV land this must be weighed against the benefits of the proposals including the ability to produce renewable energy.

## 6.5 Landscape and visual impact:

- 6.5.1 Local Development Plan policies CS6 'Sustainable Design and Development Principles', MD2: Sustainable Design', and MD12 'The Natural Environment' seek to ensure that new development protects, restores, conserves and enhances the natural environment, taking into account the potential effects on the local landscape character and existing visual amenity value. NPPF Paragraph 174 advises that planning policies and decisions should contribute to and enhance the natural and local environment by (inter alia): protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.



Figure 5 – Viewpoint 1-2



Figure 6 – Viewpoint 3-4



**Figure 7 – Viewpoint 7-8**

- 6.5.2 The planning application is accompanied by a Landscape and Visual Impact Assessment (LVIA) prepared in accordance with Landscape Institute guidelines. The conclusions and methodology of the LVIA have been supported by the Council’s landscape consultant. The LVIA assesses the baseline landscape and visual context at the site and identifies mitigation measures to reduce the effect of any identified impacts.
- 6.5.3 The LVIA confirms that there would be a ‘slight’ effect on The Estate Farmlands Landscape Character Type of the Shropshire Landscape Typology. At most there would be a ‘large residual (at year 15) effect’ to the landscape character of the site itself and its immediate surrounding area (up to 500m).
- 6.5.4 The LVIA advises that to the north, views of the site are screened by the rising landform and vegetation. To the east and west, views are screened by intervening vegetation and landform. The receptors most affected would be the users of the roads, PRow and properties closest to the site.
- 6.5.5 The LVA concludes that those receptors visually affected by the development, would not experience a view of the entire site (due to the receptor’s location or the presence of visual screening). Furthermore, sensitive receptors located to the south of the application site (such as those identified in Cantlop) would experience at most ‘moderate’ residual effects because of the proposal. The remaining visual receptors would experience ‘slight’ or ‘negligible’ residual level effects.
- 6.5.6 Proposed mitigation measures include the creation and re-establishment of boundary hedgerows around the site and encouraging taller hedgerow growth. The report states that these measures will assist in reinforcing visual screening from the users of the local roads, PRow and residential properties. The report concludes that the overall impact on the landscape of the development is acceptable.



6.5.7 The officer has visited the site and notes that the local landscape is generally of a high quality. Views of the site would be available in particular from Cantlop which is located to the south of the site on the opposite side of a small valley. Trees on the site's southern boundary would provide some mitigation but would not fully screen the site given the topography. Additional views are possible from the track which runs through the site to Cantlop Mill. The applicant has proposed additional hedgerow planting either side of this track to screen these views.

6.5.8 The Council's landscape adviser has supported the LVIA methodology and conclusions that the proposals can be accepted in terms of visual and landscape effects. The renewable energy benefits of the proposals must also be taken into account, as highlighted by the Council's climate change task force. (Core Strategy Policies CS5, CS6, CS17, SAMDev Policies MD12, MD13)

6.5.9 Visual impact – glint and glare: A Glint and Glare assessment has undertaken geometric analysis within 1km of the site. Views of the reflecting panels are considered possible for 10 dwellings. However, no mitigation is recommended because:

- The duration of effects is not significant; and/or
- The separation distance between the dwelling and the closest reflecting panel is sufficiently large; and/or
- Due to existing screening views are likely to be possible for observers above the ground floor only, i.e., the first floor or above<sup>14</sup>; and/or
- Solar reflections would occur within approximately 2 hours of sunrise/sunset; therefore, effects would mostly coincide with direct sunlight.

Overall, the Report concludes that the no impacts requiring mitigation are predicated for the surrounding road users of dwellings.

## 6.6 Heritage

6.6.1 Section 194 of the NPPF advises that 'in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting'. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness. (NPPF 197).

6.6.2 When considering the impact of a proposed development on the significance of a designated heritage asset, special regard should be paid to the asset's conservation. The more important the asset, the greater the weight should be. (NPPF 199). Where a development proposal will lead to less than substantial harm to the significance of

a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. (NPPF 202).

- 6.6.3 A Heritage Assessment assesses the significance of the historic environment and archaeological resources at and surrounding the site, including the effects of the development on heritage assets and their setting. There are no built heritage assets within the Site and the Assessment concludes that the majority of designated heritage assets within the 1km study area and beyond have no potential to be affected by the proposed development.
- 6.6.4 Five designated heritage assets could potentially be affected by the proposed development. These are the Grade I Listed Church of All Saints; the Grade II Listed Boreton Farmhouse and attached Stable Blocks; the Grade II Listed Berrington Farmhouse; the Grade II Listed house at 69 And 70 at Cantlop and the Grade II Listed Newman Hall Cottages. The report finds that there is limited intervisibility and lack of any significance of the views of the heritage assets from the site or from the heritage asset to the site. There is also a lack of any significant viewpoints to see the site and the heritage assets together. As such, the report concludes that there will be no negative impact on the heritage significance of these designated heritage assets via any change to their setting.
- 6.6.5 Overall, the report concludes that the proposal will result in no negative impact to the significance of the identified Listed Buildings.
- 6.6.8 The Council's Conservation team has not objected. They support the recommendation of the Council's landscape adviser for a condition imposing a 10-year landscape management and maintenance plan. It is concluded that the proposals can be accepted on heritage terms subject to the recommended conditions. Core strategy policy CS15 and SAMDev Policy MD13.
- 6.6.9 Archaeology: The Application is supported by an Archaeological Desk Based Assessment which identifies no designated Scheduled Monuments, Grade I, II\* or II Listed Buildings, Conservation Areas, Designated Wrecks, Designated Battlefields or Registered Parks and Gardens on the Site or immediately adjacent to the Site.
- 6.6.10 The Site is recorded to lie within an area where the results of previous archaeological investigation carried out within the wider landscape suggest there is a high general archaeological potential. As such, the Council's historic environment team has recommended a planning condition requiring approval of a written scheme of investigation (WSI). Any future solar development would be subject to prior investigation as set out in the WSI.
- 6.7 Other environmental considerations
- 6.7.1 Noise and amenity: A noise assessment concludes that the proposed development would be passive and would not generate any significant operational noise, other than from occasional visits by maintenance/service vehicles and intermittent tracking of the sun by the solar panels. There would be some intermittent noise during operation as the solar arrays move to track the sun over the course of a day. However, the noise associated with such activities would not exceed existing

background noise levels in accordance with BS4142 and World Health Organisation Guidelines. A construction management plan condition has been recommended in Appendix 1. Subject to this it is concluded that subject to this the proposals can be accepted in relation to noise.

- 6.7.2 Access / traffic and construction: Paragraph 111 of the NPPF states that "development should only be prevented or refused on highways grounds if there would be unacceptable impact on highway safety, or the residential cumulative impacts on the road network would be severe". SAMDev Policy MD8 (Infrastructure Provision) states that applications for strategic energy provision will be supported to help deliver national priorities and locally identified requirements, where its contribution to agreed objectives outweighs the potential for adverse impacts, including with respect to noise, dust, traffic, odour and vibration.
- 6.7.3 The application is supported by a Transport Statement which sets out the strategy and options for site access, routing for construction traffic, construction vehicle size and frequency and mitigation. Once operational, the site would generate just one or two visits per week for regular maintenance and inspection purposes. The Transport Statement finds that the existing strategic road network has sufficient capacity to accommodate this. Overall, the Highways Statements finds that the proposal is acceptable and would pose no harm to the safety of the users of the public highway network.
- 6.7.4 There has been no objection from SC highways. They have recommended a Construction management plan condition to allow traffic to be appropriately managed during the temporary construction period (included in Appendix 1). The access has been amended to come off the Cantlop road in order to avoid the need for construction vehicles to travel up Sandy Bank at the north-west corner of the site where there are erosion issues. It is considered that the proposals can be accepted in relation to Paragraph 111 of the NPPF and Core Strategy policies CS5, CS6, CS7 and CS8.
- 6.7.5 Ecology: The planning application includes a Preliminary Ecological Appraisal which concludes that the proposed development will have a positive impact on the environment through the provision of biodiversity net gains within the Site. The proposal will seek to enhance local habitats by implementing measures such as creating and enhancing existing site boundaries with native species, providing wildflower mix across the site and taking the site out of intensive crop production.
- 6.7.6 Recommendations have been made to safeguard habitats and species present including the bats, birds, hedgehogs, hazel dormouse, badgers and reptiles both during construction and post-development. The proposals are designed to retain and enhance mature trees, woodlands and hedgerows and the Sites biodiversity post-development. This includes by enhancing existing hedgerows with native planting of fruit/seed bearing species; and creating and allowing areas for hibernaculum. Overall, there would be no adverse impacts on biodiversity and the landscaping proposals would result in a significant biodiversity net gain.
- 6.7.7 An Updated Layout Plan and Landscape Masterplan have been prepared in response to comments received from SC Ecology. The updates are:

- i. Reduction in Panels on southern boundary: Solar panels have been reduced in the southern portion of the site, resulting in a new buffer of up to 65m from the southern boundary. This thick buffer will be transformed into species rich grassland.
- ii. Skylark Protection Areas: The proposed layout scheme now accommodates off-site 'Skylark Protection Areas' to the north of the proposed solar farm. These areas will be transformed into species rich grassland and will form suitable habitat for skylarks. This would be secured by means of a s106 legal agreement.
- iii. Bee Opportunity Areas: The scheme now incorporates bee opportunity areas in the north-eastern corner of the site and along the southern border of the site. We are keen to meet and converse with local beekeepers who could support the growth and maintenance of this element of the scheme.

6.7.8 Overall, the proposal will result in 132.84% net gains in biodiversity, which will be achieved through a range of measures, including:

- i. Medium distinctiveness species-rich wildflower and grassland. Management of this area will include grazing, with a seed mix to include a sward that benefits from this type of management.
- ii. The retention of native hedgerows, with a rotational cutting scheme, management of weedy species and the proposed species rich grassland seeding.
- iii. New species-rich hedgerows, along the northern boundary of both fields, as well as small sections in old field entrances.

6.1.9 SC Ecology has not objected subject to a number of ecological conditions linked to habitat / biodiversity management / enhancement (included in Appendix 1). They requested further information in relation to mitigation for effects on Skylark habitat. In response the applicant has identified a specific area for Skylark mitigation in fields to the immediate north of the proposed site and has put forward specific management measures for this area to ensure that the habitat remains optimal for Skylark throughout the operational life of the proposed development. These provisions would be secured by means of a s106 Legal Agreement. Subject to this it is concluded that the Proposed Development complies with relevant planning policy regarding ecology / biodiversity (CS6, CS17, MD12).

6.7.10 Arboriculture: A tree appraisal report identifies identified a total of 63 tree features which have the potential to be impacted by the development, comprising 39 individual trees, 15 groups of trees, eight hedgerows and one woodland. A 15 metre section of hedgerow G50 and 10 metre section of hedgerow H24 will require removal in order to facilitate the proposed vehicular accesses. Both features have been categorised as a low C grade whose loss can be easily compensated for. It is anticipated that planting of this type will be included within the site landscaping scheme. There were 11 veteran trees surveyed either on or within 15m of the site and their Root Protection Areas will be sufficiently protected.

6.7.11 The arboricultural report concludes that, providing the recommendations contained within the report are followed, the proposed development will not harm trees identified

for retention. The proposed tree losses are not expected to have a significant negative impact on the treescape of the area. The Council's trees service has accepted the findings of the tree survey and has recommended conditions to protect existing trees and hedgerows during the construction phase. These are supported and are included in Appendix 1.

- 6.7.17 Drainage / hydrology: A Flood Risk Assessment (FRA) advises that the site falls entirely within Flood Zone 1 (lowest flood risk). The proposed development will only alter the impermeable area on site by a small amount, resulting in a negligible increase in surface water runoff.
- 6.7.18 The FRA concludes that the proposal would not involve the construction of inappropriate development in an area of high risk, nor would the proposal result in increased flood risk elsewhere. The Council's drainage team has not objected, and it is considered that the proposals can be accepted in relation to relevant drainage considerations. (Core Strategy Policy CS17, CS18).
- 6.7.19 Rights of Way: Some objectors point to the existence of a Council-maintained track running north-south through the centre of the site and claim that this is a public right of way. The route is the access road to the property known as Cantlop Mill. It is not recorded as a statutory right of way but it is understood that it is used by walkers.. The metalled portion of the route ends at Cantlop Mill. An unmetalled track extends from this property southwards to the public highway at Old Farm, initially through a woodland area. It is It has been established by Councillor Wild that the whole route from Cantlop Mill to Cantlop hjas the status of a highway, although the brook is no longer passable to vehicular traffic. Whilst not a definitive right of way it is acknowledged that users of this route would experience intermittent views of the proposed development. The applicant has proposed additional hedgerow planting either side of the track to provide some mitigation.

Timescale and decommissioning:

- 6.7.20 Current solar photovoltaic arrays have a design life of approximately 40 years. It is recommended that any planning permission includes a condition requiring decommissioning and removal of the solar panels and associated infrastructure at the end of their design life and reinstatement of the field to 'normal' agricultural use, as stated in the application. This would ensure that future arable productive capacity is protected. A decommissioning clause would also be included in the applicant's tenancy agreement. The value of the solar equipment at the end of its design life would provide a further incentive for decommissioning.

Leisure and Tourism

- 6.7.21 Core Strategy Policy CS16 (Tourism, Culture and Leisure) seeks to deliver high quality, sustainable tourism, and cultural and leisure development. Amongst other matters the policy seeks to promote connections between visitors and Shropshire's natural, cultural and historic environment.
- 6.7.22 The applicant's visual appraisal supports the conclusion that the site is capable of being effectively screened and would not give rise to any unacceptable visual impacts. No detailed evidence has been presented to support the conclusion that any

residual views of the site would be prominent from or would have a significant impact on any local leisure / tourist interests.

## 6.8 Other matters:

6.8.1 Community engagement: The applicant has carried out a pre-application exercise with the local community and other key stakeholders. The applicant has sought to respond to concerns from the local community with amendments to the design of the proposals.

## 7.0 CONCLUSION

7.1 The proposed solar development would operate for a temporary period of 40 years and would be fully restored as agricultural land after decommissioning. Relevant policies and guidance support the transition to a low carbon future and encourage the use of renewable resources.

7.2 The 30MW development could power 7000 homes annually giving a CO2 saving of approximately 6000 tonnes per annum. The proposals would deliver biodiversity net gain (BNG) of 123.5% in primary habitat and 76.4% for hedgerow units.

7.3 Over 80% of the site is located on best and most versatile quality land. National policy does not preclude the use of such land for solar farm developments provided an applicant can give evidence that lower quality land is not available. It is considered that the applicant has provided sufficient evidence to justify this choice of site. The proposals will provide an essential source of diversified income allowing the farm unit to invest in other farming operations within the unit. This includes funding for proposals to upgrade productivity of adjoining grade 3b land within the unit which is set to come out of the stewardship scheme.

7.4 In terms of heritage the Conservation Officer has not objected and has acknowledged the landscape mitigation strategy referred to by the Council's landscape advisor. There would be some residual landscape effects, including in the vicinity of Cantlop and on the track to Cantlop Mill. However, the extent of these can be limited by the applicant's landscape mitigation proposals.

7.5 The NPPF advises that the production of renewable energy is a material consideration which should be given significant weight and that sustainable development proposals which accord with the development plan should be approved without delay (S158). It is concluded that the proposals are sustainable.

7.6 . There have been no outstanding objections from technical consultees with respect to issues such as highways, trees, ecology and drainage. Detailed planning conditions have been recommended to ensure the highest level of control of the development. Subject to this it is considered that the proposal also meets the criteria for development in the countryside as set out in Core Strategy Policy CS5. The proposal is therefore in general accordance with the Development Plan. Overall, it is considered that the public benefits of the proposals including renewable energy provision are sufficient to outweigh any identified residual impacts and permission should be granted subject to the conditions set out in Appendix 1.

## 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 1970.

## 9.0 FINANCIAL IMPLICATIONS:

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

## 10.0 BACKGROUND:

## 10.1 Relevant guidance

### National Planning Policy Framework (NPPF) (DCLG – 2021)

- 10.1.1 The NPPF clearly states from the outset that there is a presumption in favour of sustainable development and that local plans should follow this approach so that development which is sustainable can be approved without delay. One of the core planning principles is to ‘support the transition to a low carbon future in a changing climate...and encourage the use of renewable resources (for example, by the development of renewable energy)’. The NPPF expands further on this principle in paragraph 155: “To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should:
- provide a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts);
  - consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and
  - identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

Paragraph 157 advises that when determining planning applications, local planning authorities should:

- Not require applicants for energy developments to demonstrate the overall need for renewable or low carbon energy and also recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- Approve the application if its impacts are (or can be made) acceptable...”

- 10.1.2 Paragraph 81 advises that ‘Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development’.

- 10.1.3 Particularly relevant chapters of the NPPF are:

6. Building a strong, competitive economy
8. Promoting healthy and safe communities
11. Making effective use of land
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

## 10.2 Relevant planning policies:

- 10.2.1 The Shropshire Core Strategy (Adopted February 2011) sets out a Spatial Vision for Shropshire and the broad spatial strategy to guide future development and growth



during the period to 2026. The strategy states, “Shropshire will be recognised as a leader in responding to climate change. The Core Strategy has 12 strategic objectives, the most relevant is Objective 9 which aims “to promote a low carbon Shropshire delivering development which mitigates, and adapts to, the effects of climate change, including flood risk, by promoting more responsible transport and travel choices, more efficient use of energy and resources, the generation of energy from renewable sources, and effective and sustainable waste management”. Relevant Policies include:

- Policy CS5 - Countryside and the Green Belt:
- Policy CS6 - Sustainable Design and Development Principles
- Policy CS8 - Infrastructure provision positively encourages infrastructure, where
- Policy CS13 - Economic Development, Enterprise & Employment
- Policy CS16 - Tourism, Culture and Leisure
- Policy CS17 - Environmental Networks

### 10.3 Site Management and Allocation of Development Document

Relevant Policies include:

- MD2 - Sustainable Design
- MD7b - General Management of Development in the Countryside
- MD8 - Infrastructure Provision
- MD11 - Tourism facilities and visitor accommodation
- MD12 - The Natural Environment
- MD13 - The Historic Environment

### 10.5 Other Relevant Guidance

10.6.1 The UK Renewable Energy Strategy (July 2009) - The UK Government published the Renewable Energy Strategy in July 2009. The strategy explains how it intends to “radically increase our use of renewable electricity, heat and transport”. It recognises that we have a legally binding commitment to achieve almost a seven-fold increase in the share of renewables in order to reach our 15 target by 2020. It suggests that the amount of electricity produced from renewables should increase from 5.5 to 30 .

10.6.2 Planning practice guidance for renewable and low carbon energy (2015). This practice guide reaffirms the importance of renewable energy and advocates community led renewable energy initiatives. The following advice is provided specifically with regard to the large-scale ground-mounted solar photovoltaic farms:

*‘The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in very undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. Particular factors a local planning authority will need to consider include:*

- *Encouraging the effective use of previously developed land, and if a proposal does involve greenfield land, that it allows for continued agricultural use and/or encourages biodiversity improvements around arrays;*

- *That solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use ;*
- *The effect on landscape of glint and glare and on neighbouring uses and aircraft safety;*
- *The extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- *The need for, and impact of, security measures such as lights and fencing;*
- *Great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*
- *The potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- *The energy generating potential, which can vary for a number of reasons including, latitude and aspect’.*

11.0 RELEVANT PLANNING HISTORY:

11.1 There is no planning history associated with the application site.

12.0 Additional Information:

View application:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RITWS2TDJ7200>

List of Background Papers: Planning application reference 22/02441/FUL and plans.
Cabinet Member (Portfolio Holder): Cllr Richard Marshall
Local Member: Cllr Claire Wild
Appendices: Appendix 1 – Conditions.

## APPENDIX 1

### CONDITIONS

#### Commencement of Development

1. The development hereby approved shall be commenced within 3 years of the date of this permission. Such date shall be referred to hereinafter as ‘the Commencement Date’.

Reason: To comply with Section 91(1) of the Town and Country Planning Act 1990 and in recognition of the part-retrospective nature of the development.

#### Definition of the Permission

2. Except as otherwise provided in the conditions attached to this permission the operations hereby permitted shall be carried out strictly in accordance with the application form dated 16<sup>th</sup> August 2022 and the accompanying planning statement and supporting documents and plans.

Reason: To define the permission.

3. This permission shall relate only to the land edged red on the site location plan (Reference 1051487-ADAS-XX-XX-DR-P-8006 Location Plan), hereinafter referred to as 'the Site'.

Reason: To define the permission.

#### Highways

4. Prior to the commencement of the development hereby approved, a Construction Environment Management Plan (CEMP), based on the submitted Transport Statement and an outline CEMP, dated May 2022, shall be submitted to and approved in writing by the local planning authority. The CEMP shall make provision for the following measures:
  - i. The HGV route shall be as per Figure 1 in Appendix 4 of the Transport Statement;
  - ii. Construction vehicles shall access the site via the proposed new site access only;
  - iii. The site access shall be provided as per drawing 111182-10-01 of the Transport Statement;
  - iv. Traffic marshalls shall be employed to manage access and egress during the construction phase due to reduced visibility as outlined in section 3.5 of the Transport Statement;
  - vi. Provision of mitigation measures for non motorised users of the public right of way as outlined in section 4.3 of the Transport Statement;
  - vii. Provision of Traffic Management Measures as outlined in Traffic Management Plan (Appendix 4 of the Transport Statement);
  - viii. Pre/Post Construction Condition Surveys;
  - ix. Provision of Signage as outlined in the Traffic Management Plan;
  - x. Maintenance of the Highway as outlined in the Traffic Management Plan;
  - xi. Ensure parking does not result in overspill parking along highway as outlined in Traffic Management Plan.

The works shall be implemented in accordance with the approved details

#### Arboriculture

5. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Protection Plan drawing no 1051610 ECOENERGY TPP SHEETS 1- 3 (Appendix 5) and in accordance with BS 5837: 2012 "Trees in relation

to Design, Demolition and Construction recommendations for tree protection". The protective fencing shall be installed prior to commencing any approved development related activities such as site preparation or construction. The fences shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the Local Planning Authority.

Reason: To safeguard the amenities of the local area by protecting trees.

6. Prior to the commencement of the development the consulting arboriculturist shall be appointed to undertake supervision and monitoring of the tree protection fencing and other measures at pre-commencement stage and throughout the construction period as outlined at Appendix 10 of the ADAS Tree Report : Key Sequence of Events after Planning Approval and submit to the Local Planning Authority a satisfactory completion statement to demonstrate compliance with the approved tree protection measures at each stage listed.

Reason: To safeguard the amenities of the local area by protecting trees

7. All services will be routed outside the root protection areas indicated on the Tree Protection Plan or, where this is not possible, a detailed method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

Reason: To safeguard the amenities of the local area by protecting trees

#### Landscape and Ecological Mitigation Plan

8. No development shall take place until a detailed soft landscape scheme for the whole site has been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The details shall include:
  - i. Schedules of plants/seed mixes, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate,
  - ii. Method of cultivation and planting,
  - iii. Means of protection
  - iv. Creation of wildlife habitats, features, and ecological enhancements
  - v. Written specifications for establishment of planting and habitat creation;
  - vii. Programme for implementation

This is for all grassed areas, tree, shrub, and hedgerow planting

- b. Planting and seeding shall be undertaken within the first available planting season following the completion of construction works and in accordance with a scheme which shall be submitted for the approval in writing of the Local Planning Authority. The scheme shall be implemented in accordance with the approved details. The developer shall notify the Local Planning Authority in writing of the date when planting and seeding under the terms of condition 6a above has been completed.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

9. No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. The maintenance shall be carried out in accordance with the approved schedule. The maintenance schedule shall include for the replacement of any plant (including trees and hedgerow plants) that is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective. The replacement shall be another plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

Reason: To secure establishment of the landscaped area in the interests of visual amenity and ecology.

### Ecology

10. Prior to commencement of the use, 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 4 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species. A minimum of 4 artificial nests, of either integrated brick design or external box design, suitable for Starlings (42mm hole, starling specific), Sparrows (32mm hole, terrace design), House Martins (House Martin nesting cups) and/or small birds (32mm hole, standard design) shall be erected on the site prior to first use of the development. The boxes shall be sited in suitable locations and at suitable heights from the ground, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall therefore be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats and nesting opportunities for wild birds, in accordance with MD12, CS17 and section 175 of the NPPF.

11. Details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to installation and designed to take into account and thereafter retained for the lifetime of the development.

Reason: To minimise disturbance to bats, which are European Protected Species.

12. All works to the site shall occur strictly in accordance with the mitigation measures set out in the Preliminary Ecological Appraisal (RSK Adas Ltd, 24/01/2023).

Reason: To ensure the protection of and enhancements for Protected Species including birds, badgers and bats.

### Archaeology

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

commencement of works. The works shall be carried out in accordance with the approved scheme.

Reason: The site is known to hold archaeological interest.

#### Final decommissioning

14. All photovoltaic panels and other structures constructed and/or erected in connection with the approved development and any associated infrastructure shall be physically removed from the Site within 40 years of the date of this permission and the Site shall be reinstated to agricultural fields. The Local Planning Authority shall be provided with not less than one week's notice in writing of the intended date for commencement of decommissioning works under the terms of this permission.

Reason: To allow the site to be reinstated to an agricultural field capable of full productivity at the end of the planned design life of the development and to afford the Local Planning Authority the opportunity to record and monitor decommissioning.

#### Notes:

##### Design life

- i. *The typical design life of modern solar panels is up to 40 years. Any proposal to re-power the Site at the end of its planned design life would need to be the subject to a separate planning approval at the appropriate time.*

##### Drainage (Shropshire Council Drainage Team comments)

- ii. *For the transformer installation, the applicant should consider employing measures such as the following:*

- *Surface water soakaways*
- *Water Butts*
- *Rainwater harvesting system*
- *Permeable surfacing on any new driveway, parking area/ paved area*

##### Highways

- iii. *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*
  - *undertake 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.

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

### Ecology

- v. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences. All vegetation clearance, tree removal and scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.
- vi. Widespread reptiles (Adder, Slow Worm, Common Lizard and Grass Snake) are protected under the 1981 Wildlife and Countryside Act (as amended) from killing, injury and trade and are listed as Species of Principle Importance under Section 41 of the 2016 NERC Act. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.
- If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.
  - Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.
  - The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.
  - All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

- *Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.*
  - *Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.*
  - *If a Great Crested Newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.*
  - *Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.*
- vii. *Where it is intended to create semi-natural habitats (e.g. hedgerow / tree / shrub / wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.*





Committee and date
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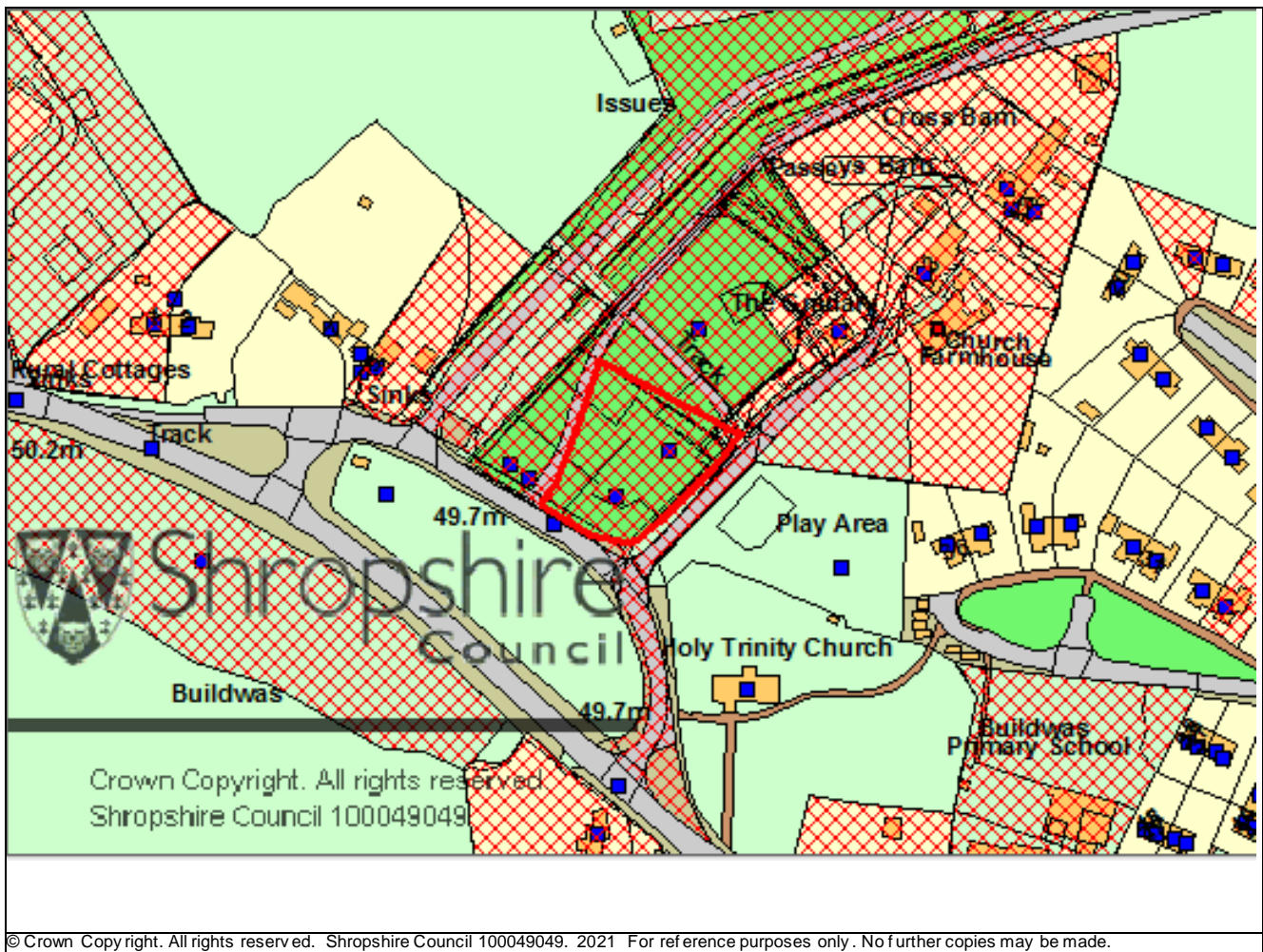
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## Development Management Report

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

### Summary of Application

<b><u>Application Number:</u></b> 22/04666/DSA106	<b><u>Parish:</u></b>	Buildwas
<b><u>Proposal:</u></b> Discharge of S106 Agreement attached to planning permission reference 09/0029/FUL		
<b><u>Site Address:</u></b> Land North of B4380, Buildwas, TF8 7DA		
<b><u>Applicant:</u></b> FSL SPV (No1) Limited		
<b><u>Case Officer:</u></b> Jacob Collett	<b><u>email</u></b> :	jacob.collett@shropshire.gov.uk
<b><u>Grid Ref:</u></b> 363661 - 304822		



**Recommendation: - Approve**

**REPORT**

**1.0 THE PROPOSAL**

The submitted application proposes the discharge of the Affordable Housing Section 106 for application SA/09/0029/F on the basis of viability. The Section 106 does not include any other obligations beyond affordable housing provision.

Application SA/09/0029/F was granted by committee in 2009 for the provision of four dwellings on the site. Plots three and four were open market with plots one and two being affordable dwellings. The affordable housing requirements were secured initially by the following condition.

*The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of PPS3 or any future guidance that replaces it. The scheme shall include: i. The numbers, type, tenure and location on the site*

*of the affordable housing provision to be made which shall consist of not less than 2 affordable houses. ii. The timing of the construction of the affordable housing and its phasing in the relation to the occupancy of the market housing; iii. The arrangements for the transfer of the affordable housing to an affordable housing provider, or the management of the affordable housing. iv. The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced. Reason: to comply with affordable housing policy*

This condition was satisfied in 2012 with the subsequent signing of the Section 106, which is the focus of this application. Occupation of the open market dwellings cannot be undertaken until the completion of the affordable dwellings. Confirmation in 2012 that the development had been legally implemented was also provided and approved by Shropshire Council.

On review of the permission the affordable housing provision (50%) was a significant factor in the approval of the scheme which was not policy compliant under the Shrewsbury and Atcham Borough Plan. It is noted that there is no evidence that the scheme was unviable at the time of grant.

The applicant in support of removing the obligations has submitted viability information which has been independently evaluated and forms a central document in the assessment of this application.

## 2.0 SITE LOCATION/DESCRIPTION

The site is located within the rural community cluster of Buildwas (as defined within SamDev) on land located to the west of Buildwas Church. The site is accessed off a minor loop road from the B4380 and is not immediately adjacent to any other domestic curtilage. Land to the north of the site has permission for a further four dwellings.

The site has been partially developed with three of the four units substantially completed.

## 3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

3.1 In accordance with the 'Scheme of Delegation' this application was resolved at the 13th of April 2023 Agenda Setting Meeting to be determined by planning committee due to parish council objection.

## 4.0 Community Representations

A Site notice was displayed at the Site on the 20<sup>th</sup> October 2022.

Buildwas Parish Council – Object

- The parish has little affordable housing

- Although build costs have increased so have sale and rental prices.
- Loss to affordable housing stock due to former power station
- Large amount of development, removal of affordable element is not a good precedent

**The viability assessment was made publicly viewable on 14<sup>th</sup> April 2023.**

SC Affordable Homes

- The viability assessment has considered a part implemented 4-unit residential scheme. The implemented planning consent requires that 2 units are provided at a 25% market discount. EC\* have determined that there is no financial headroom for the scheme to afford any planning obligations.
- A detailed appraisal of the proposed scheme considering the revenue and costs set out in the ECs\* cost plan and that provided by BCIS.
- An assessment of the revenue for the proposed scheme has calculated a Gross Development Value of £1,585,000 for the Discounted Open Market Scheme and £1,710,000 for the 100% Open Market Scheme. This is higher than that put forward by EC\*.
- A detailed assessment of development costs has calculated a Gross Development Cost of £2,086,922 for the Discounted Open Market Scheme and £2,209,556 for the 100% Open Market Scheme.
- Assessing the development as a whole, a Residual Land Value for the Discounted Open Market Scheme of (£501,922) and (£499,556) for the 100% Open Market Scheme.
- For the Benchmark Land Value, a value has been applied to the site based on EUV+ of £117,300.
- The scheme is unable to afford the provision of any affordable housing or Section 106 Contributions as our Residual Land Value for both the Discounted Open Market and 100% Open Market Schemes are below our Benchmark Land Value.

\*Eudurock Consultants acting for the applicant

On the basis of the conclusion of the independent viability report, SC Affordable Homes support the request to remove the obligation.

- Public Comments

No public representations were received

5.0 THE MAIN ISSUES

Principle of development

6.0 OFFICER APPRAISAL

Principle of Development

The acceptability of the application is considered to focus on two main issues. The first is the viability of completing the development and the second is a review of the scheme against current planning policy.

### **Viability**

Paragraph 58 of the National Planning Policy Framework outlines the following:

*Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.*

There is a clear responsibility and emphasis on the applicant to prove viability. As the planning policy has changed since the scheme was initially granted, there is a reasonable need for a viability assessment alongside the applicant's assertion of abnormal costs. Given the change in policy and the elapsed time since legal implementation, viability cannot be assumed. Current policy requires significantly less obligations.

Consequently, the applicant submitted, through Endrock Consulting, an assessment of viability. To ensure validity Shropshire Council commissioned its service provider to undertake an assessment of this appraisal. The provider was RCA Regeneration. RCA Regeneration issued a report with the following conclusion:

*“On the basis of our assessment of the proposed scheme and BLV, we have determined that the scheme cannot afford the required level of planning obligations as both the 100% Open Market and Policy Compliant appraisals return a Residual Land Value below that of the Benchmark Land Value.”*

Considering the independent validity of the appraisal it is concluded that the scheme is unable to support the affordable housing obligations as included within the Section 106, a position supported by the housing enabling officer. However, it is also noted that the scheme is unviable (to a lesser extent) even with a 100% open market provision. Therefore, there is no opportunity to mitigate the loss of affordable dwellings by securing monies as a housing contribution. Shropshire should always attempt to secure planning obligations. In this case however there is no scope to do so.

### **Current Policy**

Since the original grant of approval in 2009 significant planning policy and operations have changed. Firstly, Shrewsbury and Atcham became joined into the Unitary Council of Shropshire alongside the adoption of the Core Strategy in

the same year (2012). This strategy became the core policy document overriding the Shrewsbury and Atcham Borough Plan (SABP). Furthermore, SamDev was adopted in 2015.

The 2009 planning permission was assessed against the SABP. Under policy HS4 Buildwas was considered an eligible settlement for developments of up to two open market houses. However, amended policy HS8 allowed these acceptable sites to have three dwellings provided one was affordable. This was because the threshold for affordable contributions in rural areas was three houses at this time. Consequently, the issue of the fourth dwelling was not policy compliant, and therefore on balance it was concluded that if the fourth dwelling was also affordable (bringing the provision to 50%) it could be supported. A decision ratified by the planning committee.

With this context a review of the site against current planning policy has been undertaken.

CS4 outlines support for housing development within community clusters (of which Buildwas is) as long as they are appropriate, provide a mix of housing types and help balance rural communities. This is further supported in MD7a. Furthermore, SamDev policy 13.2 outlines the following;

*The settlement of Buildwas in the Parish of Buildwas is a Community Cluster settlement where development by limited infilling and conversions may be acceptable on suitable sites. The housing guideline for the Cluster is around 10 additional dwellings over the period to 2026. The Parish Council have expressed a preference that development should be phased so that no more than 5 houses are developed in each half of the Plan period and that no more than 3 dwellings should be developed on any single site.*

The most recent housing supply statement outlines that two dwellings have been fully completed in Buildwas, with a further sixteen having outstanding permission. This includes the four on the site. Therefore, the guideline for Buildwas has been exceeded. However, as the site has a lawfully implemented permission for four dwellings a reserve position is presented, reducing the relative weight of the housing guidelines significantly. Consequently, the erection of four dwellings on this site would be supported in principle.

The next consideration would then be the affordable housing requirements. Since 2009 the thresholds for requirement of affordable housing/contributions have been changed. As outlined within the Type and Affordability of Housing SPD, thresholds for affordable housing obligations/contributions are currently five houses within a rural area or a site that is over 0.5 hectares. The site falls below both these thresholds and therefore no affordable contributions would be required.

As a point of reference, another site (18/00186/OUT) within Buildwas was granted permission in 2018 under the same current policies for four dwellings. No affordable houses or contributions were required.

If a new application was to be submitted, the principle of four open market dwellings would be acceptable. This position is considered to have moderate weight although it is recognised that securing of agreed obligations should be pursued by Shropshire Council. Especially in cases where it tipped the balance in favour of a scheme. It is therefore only when the current planning position would be supportive, **and** the viability assessments clearly evidence there is no money/options for obligations, that the planning balance is in favour of discharging the Section 106.

#### Other considerations

Even if the affordable housing requirement is removed, the provision of two smaller properties is of value in providing a mixture of sized dwellings within rural areas of Shropshire.

### 7.0 CONCLUSION

The applicant has evidenced that the scheme is not viable with the affordable housing obligations and that there are not any monies available to reduce this to only contributions. Furthermore, a review of the site and scheme against current planning policy, would support in principle four open market dwellings without any affordable housing obligations. Consequently, only in consideration of these two moderately weighted factors together can it be concluded that the planning balance is in favour of discharging the Section 106. The application is recommended for approval.

### 8.0 Risk Assessment and Opportunities Appraisal

#### 8.1 Risk Management

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

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

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

#### 8.2 Human Rights

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

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

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

### 8.3 Equalities

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

### 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS4 - Community Hubs and Community Clusters

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

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

MD7B - General Management of Development in the Countryside

National Planning Policy Framework

SPD Type and Affordability of Housing



RELEVANT PLANNING HISTORY:

- 22/04361/AMP Amendments to planning permission 09/0029/F and 22/03492/AMP - alterations to garaging to plots 3 and 4 GRANT 4th November 2022
- SA/09/0029/F Erection of four dwellings including two affordable homes and creation of new vehicular and pedestrian accesses PERCON 10th March 2009
- 12/00470/FUL Renewal of extant Planning Permission Ref: 09/0029/F for the erection of four dwellings including two affordable homes and creation of vehicular and pedestrian access WDN 22nd March 2012
- SA/09/0029/F Erection of four dwellings including two affordable homes and creation of new vehicular and pedestrian accesses PERCON 10th March 2009
- 12/00470/FUL Renewal of extant Planning Permission Ref: 09/0029/F for the erection of four dwellings including two affordable homes and creation of vehicular and pedestrian access WDN 22nd March 2012
- 12/00470/FUL Renewal of extant Planning Permission Ref: 09/0029/F for the erection of four dwellings including two affordable homes and creation of vehicular and pedestrian access WDN 22nd March 2012

11. Additional Information

Cabinet Member (Portfolio Holder) - Councillor Richard Marshall
Local Member
Cllr Claire Wild





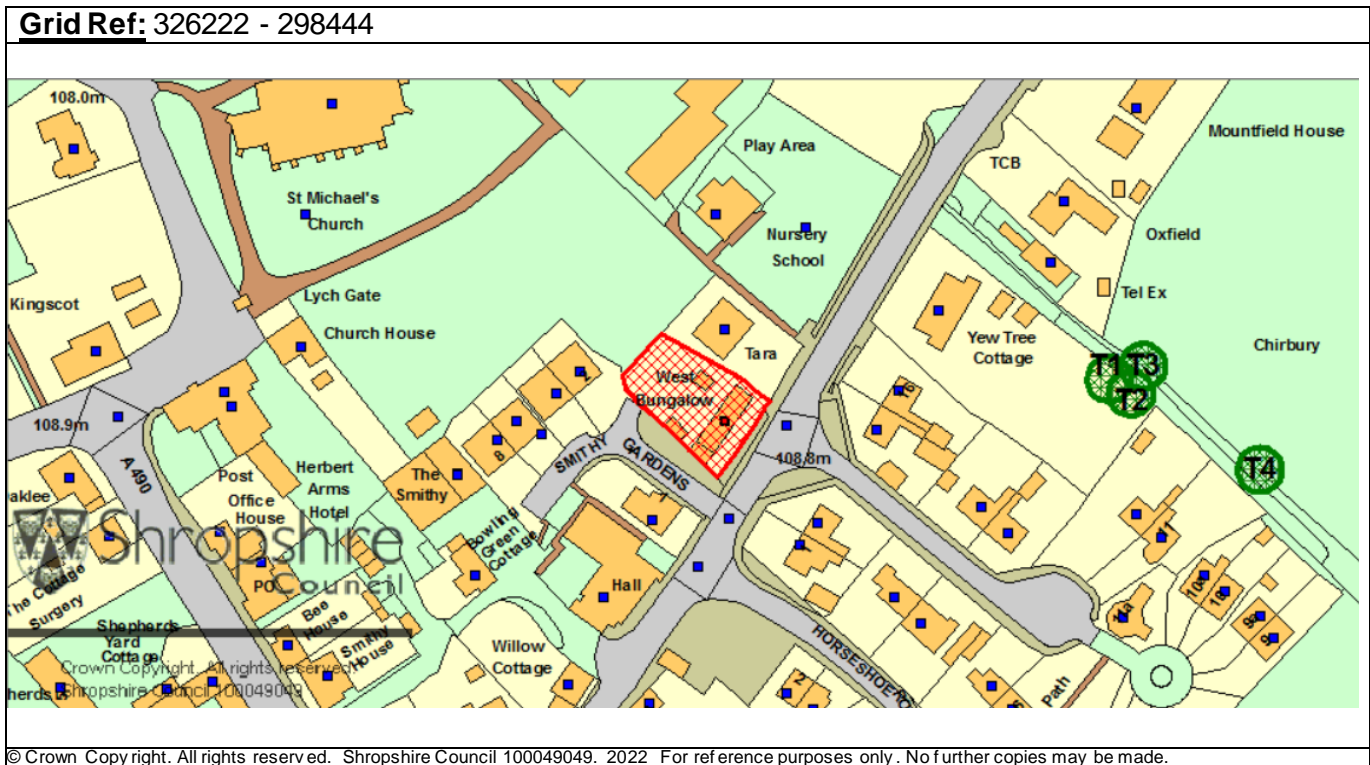
Committee and date  
**Southern Planning Committee**  
**11th April 2023**

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 22/04842/OUT	<b>Parish:</b>	Chirbury With Brompton
<b>Proposal:</b> Outline application for the demolition of existing bungalow and erection of 2No. dwellings (all matters reserved)		
<b>Site Address:</b> West Bungalow Chirbury Montgomery Shropshire SY15 6BH		
<b>Applicant:</b> Mr Darren Cullen		
<b>Case Officer:</b> Dunya Fourie		<b>email:</b> <a href="mailto:dunya.fourie@shropshire.gov.uk">dunya.fourie@shropshire.gov.uk</a>



**Recommendation:-** Conditional approval

## REPORT

### 1.0 THE PROPOSAL

1.1 This application seeks outline planning consent for two dwellings on the development site outlined in red with all other matters reserved for later consideration.

1.2 This application seeks consent for the principle only of two new dwellings on the site. The indicative plans submitted with the application show the demolition of the existing single storey detached dwelling on the site and erection of 2 two storey detached dwellings. The layout plan is for information purposes only as all matters including appearance, scale, layout, access, and landscaping are reserved for later consideration under a separate application, and only if this outline proposal is granted.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The immediate site comprises a parcel of land that adjoins the B4386 classified road through Chirbury.

2.2 The site is close to the village hall and school and directly opposite the entrance to the Camlad Cottages residential estate. The adjacent neighbouring dwellings comprise a two storey newly built red brick dwelling and single storey bungalow set back from the road edge.

### 3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

3.1 The Council's recommendation is one of approval which is different to the Parish Council's objection, as such, in accordance with Part 8 of the Shropshire Council Constitution, following consultation with the Chair of the Planning Committee it was determined that the application would be determined by the Members of the Planning Committee.

### 4.0 Community Representations

#### 4.1 Consultee Comment

4.1.1 Local Member-Councillor Kidd

Concern raised on the following grounds:

- Overdevelopment of the site
- Out of character with the village plan and property density
- Additional driveway could impact congestion at school pick up/drop off times
- Orientation on site important for street view
- Semi-detached properties may be better
- Village design plan is applicable

#### 4.1.2 SC Conservation (Historic Environment)

Difficult to fully assess the potential impacts with all matters reserved. No supporting statement or assessment have been provided. Concern the indicative scheme could appear cramped and overdeveloped on this constrained site.

#### 4.1.3 SC Archaeology (Historic Environment)

We recommend that a phased programme of archaeological work is made a condition of any planning permission. This should comprise a field evaluation to consist of a trial trenching exercise on the footprint of the proposed new dwellings, followed by further mitigation as appropriate

#### 4.1.4 SC Trees

Not able to determine that the development of the site as proposed is compatible with the expectations of local and national policies for good design and sustainable development as applied to natural assets and the sustainable integration of development into the local area.

- Constrained site, limited space for meaningful landscaping
- Hard standing parking area monopolises the front of the site
- Infrastructure may not leave enough space for retention of boundary treatments

#### 4.1.5 SC Ecology

*Response received 2<sup>nd</sup> April 2023*

I have read the submitted Ecological Impact Assessment (Churton Ecology, March 2023). I am happy with the level of survey work.

The ecology officer confirmed they are happy with the survey work and findings, no objection provided the recommended conditions and informative notes are included on any forthcoming approval.

*Response received 15<sup>th</sup> November 2023*

- #### 4.1.6
- Bat survey required, preliminary roost assessment initially, a presence/absence survey would be required if the preliminary assessment finds evidence of bats, potential bats or where a complete and thorough inspection cannot be carried out.

#### Highway Authority

No objection, subject to the recommended conditions forming part of the consent.

## 4.2 Public Comments

4.2.1 A site notice was erected at the site which publicised the submitted planning application, no decision was made for a continuous period of 21 days from the date of the site notice.

### 4.2.2 Chirbury and Brompton Parish Council

The Parish Council objects to the proposed development on the following grounds (a full copy of their response is available on the Authority's website):

- Not in keeping with the village design statement and would be out of character with the village
- Overdevelopment of the site
- Visual impact on the Grade I listed Church
- Highway safety concerns
- Loss of neighbour amenity through overlooking and overshadowing

Third party objection

A neighbour objection has been received, objecting on the following grounds:

- Overdevelopment of the site
- Overshadowing
- Highway safety
- Archaeological concerns

## 5.0 THE MAIN ISSUES

Principle of demolition of the existing dwelling

Principle of two new residential dwellings on the site

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of Development

6.1.1 A key objective of both national and local planning policy is to concentrate residential development in locations which promote economic, social and environmental sustainability. Specifically, the Council's Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to achieve managed, targeted growth by steering new open-market housing to sites in market towns, other 'key centres' and certain smaller settlements known as Community Hubs and Clusters and which are identified in the SAMDev Plan.

6.1.2 Chirbury is recognised as a Community Hub with community facilities including post office/convenience store, a primary school, a public house, church and bus service to Shrewsbury. Policy S2.2 (ii) of the SAMDev Plan gives a guideline of approximately 30 additional homes within Chirbury during the Plan period and it was

anticipated that housing would be delivered through the development of phased housing on the allocated site. Planning application 21/01136/FUL has been submitted for this site which is currently pending a decision but with a resolution to grant permission. This is a hybrid application which specifies that development will consist of two phases. The full component is for 13 affordable dwellings whilst the outline element is for 27 dwellings. Planning consent has also been secured for 1 dwelling (18/00497/OUT and 21/00397/REM). Referring to the five year housing land supply statement, in terms of completions within Chirbury, there has been a net loss of 1 dwelling (demolition of a dwelling) between the period of March 2011 to March 2022.

- 6.1.3 The current application involves the demolition of a dwelling and the provision of two dwellings resulting in a net increase of one dwelling. The pending application for the allocated site and the previous consent for one dwelling would result in 41 dwellings, this amount would exceed the recommended development of 30 dwellings during the plan period by 11 dwellings. Unlike in many other Hubs there is no express provision for other new housing on windfall sites within a wider development boundary, and thus it could be argued that this scheme does not strictly accord with Policy S2. The key consideration is therefore how SAMDev policy MD3 is interpreted, this policy states

*'Where development would result in the number of completions plus outstanding permissions providing more dwellings than the guideline, decisions will have regard to:*

- i. The increase in number of dwellings relative to the guideline; and*
- ii. The likelihood of delivery of the outstanding permissions; and*
- iii. The benefits arising from the development; and*
- iv. The impacts of the development, including the cumulative impacts of a number of developments in a settlement; and*
- v. The presumption in favour of sustainable development.'*

The allocated housing site is close to the proposed site, the allocated site is located to the rear of the established housing development along Horseshore Road and Cottages, the close proximity of the the proposed and allocated site makes it difficult to argue why development of the application site would be fundamentally less sustainable than the allocated site.

- 6.1.4 The overarching emphasis of the development plan is to direct new residential to sustainable locations. Chirbury has sufficient services and facilities to consider it as sustainable and capable of accommodating a net gain of one dwelling, as hereby proposed. This application is for outline consent only, as such layout is reserved for later consideration, given the size constraints of the site it is likely the development of two dwellings on the site would need to be semi-detached and 2 or 3 bed dwellings. Given there is an existing dwelling on the site, its replacement with two smaller semi-detached dwellings is unlikely to overburden the existing services and facilities and the provision of smaller scale dwellings could contribute to the overall

sustainability of Chirbury. It is considered therefore, that the principle of a net gain of one dwelling on the site would be in accordance with SAMDev policy MD3.

### Setting Heritage Setting

6.2 In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS5 Countryside and Green Belt. CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, policies MD2, MD7a and MD13 of the Site Allocations and Management of Development (SAMDev), the National Planning Policy Framework (NPPF) published July 2021, Planning Practice Guidance and Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

6.2.2 In accordance with the Conservation Team response, the bungalow proposed for demolition is not of historic interest and is located outside of Chirbury conservation area. The nearest listed building would be St Michael's Church (Grade I listed), approximately 100m to the rear/north west of site.

6.2.3 Re-development of the site would retain its residential use, the surrounding residential character includes dwellings of a variety of scale and appearance, including a relatively new housing development to the rear and west of the site. Given the surrounding residential context of the site and that the scale of a two storey dwelling would not protrude above the skyline, or obstruct the church tower or any other notable buildings. Looking back from within the conservation area, it would be viewed against the setting of the existing residential development to the rear and side of the site.

### Layout, scale, appearance and landscape impacts

6.3 Core Strategy Policy CS4 requires development in Community Hubs to be of a scale and design sympathetic to the character of the settlement and its environs, and to satisfy the more general design requirements under Policy CS6 and SAMDev policy MD2. These policies expect all development to reinforce local distinctiveness in terms of building forms, scale and proportion, heights and lines, density and plot sizes, as well as materials and architectural detailing. Furthermore the local planning authority under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay particular regard to the desirability of preserving the special architectural or historic interest and setting of listed buildings, and preserving or enhancing the character and appearance of conservation areas. This is reflected by NPPF Part 12 and SAMDev Policy MD13, which attach great weight to conserving designated heritage assets.

6.3.2 In this case while layout, scale, appearance and landscaping are reserved matters, the indicative plans and the scale of the site in relation to the scale of the sites to the rear/north of the site, demonstrate that two dwellings can be accommodated on the site. In order to ensure the dwellings could be served by adequate amenity, parking and turning areas, it is likely that the two dwellings would need to be semi detached



2 or 3 bedroom properties.

Since appearance is another reserved matter, neither the materials or other design details are for consideration at this stage.

### Sustainability

- 6.3.3 Chirbury is a Community Hub and has a variety of facilities, as listed earlier in the report. The settlement has good road links to Shrewsbury, Welshpool and Churchstoke. The principle of an additional dwelling within Chirbury is assessed earlier in the report, based on the central location of the site and scale of development, the Officers suggest that an additional dwelling, above that which already exists on the site, could be accommodated and support existing services and facilities without overburdening them.

### Residential amenity

- 6.4 The site is roughly aligned with the adjacent dwelling, Tara. The proposed dwelling should not unduly affect the outlook from habitable windows of Tara. The alignment of the dwellings and arrangement of windows on the proposed site can be designed so as to ensure no overshadowing or overbearing impact.
- 6.4.1

### Access and highway safety

- 6.5 Access is reserved for consideration under a future reserved matters application but there is an existing access off the highway that serves the site. To ensure the construction of the access accords with current highway standards, the reserved matters application would require scaled plans of the access and associated visibility splays. The layout and landscaping plans would need to show parking and turning for cars, relative to the number of bedrooms of the proposed dwellings. The existing access is onto a straight section of road, the land along the frontage of the site is within the applicant's ownership and as such could be modified within the visibility splay if required.
- 6.5.1

### Drainage

- 6.6 The site is a sewered area and it is understood there is an existing connection to the main sewerage system, this is the preferred method of discharge of foul water within sewered areas. It is confirmed within the application form that surface water would be discharged to the main sewerage network. The scheme submitted under a reserved matters application would need to include details of the surface area treatment, especially for the access and parking areas.
- 6.6.1

### Ecology/biodiversity enhancement

- 6.7 Given demolition is part of this proposal, an ecological survey has been undertaken in order to establish whether or not bats and birds are using the existing dwelling as for roosting/nesting. Relevant consultation with Shropshire's ecologist has been carried out following receipt of the survey report. The level of survey work is accepted by the ecologist, no presence of bats was identified within the dwelling and
- 6.7.1

as such its demolition is unlikely to have an unacceptable impact on the favourable conservation status of bats and birds.

- 6.7.2 The rear garden is mainly unmaintained lawn which includes a large conifer tree in the north west corner and primarily timber fence boundaries. The tree is not subject to a tree preservation order and as such its retention is not controlled. Landscaping forms part of the reserved matters application, careful consideration under the reserved matters application shall be given to the biodiversity enhancement within the curtilage area. In accordance with the advice from the ecologist, any forthcoming outline consent would include conditions requiring bat and bird boxes to be integrated into the design of any future dwelling and/or within the curtilage of the dwelling.

### Affordable Housing

- 6.8 Core Strategy Policy CS11 and a related Supplementary Planning Document require all new open-market housing schemes to make an affordable housing contribution (usually a one-off payment in lieu of on-site provision where a small number of dwellings is proposed). In November 2014 a Written Ministerial Statement (WMS) announced that planning obligations should not be used to secure such tariff-style contributions below certain thresholds. Whilst the Council acknowledged the WMS as a material consideration it continued to give greater weight to its own policies, arguing that the acute and evidenced need for affordable housing in Shropshire still justified the contribution being made in the majority of cases. Meanwhile other authorities challenged the WMS at the High Court, and in July 2015 Mr Justice Holgate declared it unlawful and the Government withdrew its associated PPG.
- 6.8.1

- 6.8.2 On 11th May 2016 the Government won a Court of Appeal decision which overturned Mr Holgate's ruling. The WMS still applies, and the relevant PPG has been reinstated. Furthermore the Housing and Planning Act obtained Royal Assent on 12th May 2016, giving the Government power to achieve the same result (i.e. to set minimum thresholds for requiring affordable housing contributions) via secondary legislation. Thus, although the development plan remains the starting point for planning decisions, the Council now accepts that the WMS is a significant material consideration and one which is more up-to-date than its own policies. On balance, therefore, and at the time of writing, it is considered that there are no specific circumstances which would justify giving greater weight to the latter and requiring an affordable housing payment in this particular case, with the relevant thresholds not being met, and it having been established above that the development would be broadly sustainable in any event.

## **7.0 CONCLUSION**

- 7.1 Although the site is not allocated for new housing, and this proposal would result in one additional new dwelling, it is within the established built-up area of a sustainable settlement identified in the SAMDev Plan as a Community Hub suitable for some

open-market development. In these particular circumstances the scheme is felt to comply with Policy MD3, and hence to be acceptable in principle. Subject to details of scale, layout and appearance being agreed at the reserved matters stage there would be no significant impact on the historic environment of Chirbury village and there would be no undue or insurmountable concerns regarding residential amenity, highway safety, drainage or ecology. On balance, therefore, the application is considered to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

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

### **8.1 Risk Management**

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 (2021)

#### Core Strategy Policies:

- CS1: Strategic Approach
- CS4: Community Hubs and Community Clusters
- CS6: Sustainable Design and Development Principles
- CS17: Environmental Networks

#### Site Allocation and Management of Development Plan

- MD1: Scale and Distribution of Development
- MD2: Sustainable Design
- MD3: Delivery of Housing Development
- MD12: Natural Environment
- MD13: Historic Environment

### RELEVANT PLANNING HISTORY:

22/04842/OUT Outline application for the demolition of existing bungalow and erection of 2No. dwellings (all matters reserved) PCO  
SS/1984/9/P/ Alterations and additions to existing dwelling. PERCON 30th January 1984

## RECOMMENDED CONDITIONS To include:

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

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

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

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

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

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

4. Prior to commencement of development a scheme for the discharge of foul and surface water shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved scheme.

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding and to accord with Core Strategy policy CS6 and Site Allocation and Management of Development policy MD2 (2011-2026)

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 classes A, AA, B, C, D, E, F, G shall be erected, constructed or carried out.

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

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

- The levels of the site (both before and after development)
- Cross sections of the site (both before and after development)
- The design and means of enclosure of the site

Reason: To ensure the development is of an appropriate standard.

7. Prior to first occupation of the dwellings hereby approved, 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 prior to the occupation of

dwellings:

- A minimum of 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design) 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.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with Site Allocation and Management of Development Plan policy MD12, Core Strategy policy CS17 and section 180 of the NPPF.

8. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trusts Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To minimise disturbance to bats, which are European Protected Species and to accord with Core Strategy policy CS17 and Site Allocation and Management of Development Plan policy MD12 (2006-2026)

9. Prior to first occupation of the dwellings hereby approved, any access other than that approved under the reserved matters consent shall be removed and the area reinstated to footway (including the provision of full height kerbs). Details of any re-instatement shall be submitted to and approved in writing by the local planning authority. Re-instatement shall be carried out in accordance with the approved details.

Reason: In the interest of highway safety and to accord with Core Strategy policy CS6 and Site Allocation and Management of Development plan policy MD2 (2011-2026).

10. Prior to any ground excavation works, a programme of archaeological work in accordance with a written scheme of investigation shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved scheme.

Reason: In the interests of the historic environment and to accord with Site Allocation and Management of Development Plan policy MD13 (2011-2026)

11. Additional Information

# AGENDA ITEM

**Southern Planning Committee - 11th April 2023**

West Bungalow

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RK9RH8TDJX600>

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 Mrs Heather Kidd

# AGENDA ITEM

Southern Planning Committee - 11th April 2023

West Bungalow

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Committee and date

**Southern Planning Committee**

**9th May 2023**

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 23/00820/FUL	<b>Parish:</b>	Church Stretton
<b>Proposal:</b> Conversion of agricultural outbuilding to form one dwelling and installation of package treatment plant (resubmission).		
<b>Site Address:</b> Barn to the Rear of Brockhurst Church Stretton Shropshire		
<b>Applicant:</b> Mr & Mrs James & Stephanie Smith-Pearse		
<b>Case Officer:</b> Elizabeth Attwood	<b>email:</b> <a href="mailto:elizabeth.attwood@shropshire.gov.uk">elizabeth.attwood@shropshire.gov.uk</a>	

**Grid Ref:** 344750 - 292657

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## Recommendation:- Refuse

### Recommended reason for refusal

1. The conversion of the modern utilitarian block work building, which is not a heritage asset worthy of retention through conversion to an open market dwelling is contrary to adopted planning policy and is therefore unacceptable in principle and would result in an open market dwelling in an unsustainable location in the open countryside. The Council has a robust five-year housing land supply within settlements designated for development and so the housing policies of the Development Plan must be attached full weight. The proposed scheme would deliver very modest economic and social benefits in that it would contribute one open market dwelling to the overall housing stock with some additional local spending that might help to support local businesses and limited environmental benefits in the form of additional soft landscaping and the possible installation of solar PV panels on the roof, and rainwater recycling. Nevertheless, the proposal would result in a new dwelling in the open countryside for which there is no policy support in the adopted Development Plan. The proposed development is deemed to be contrary to Core Strategy Policy CS5 and SAMDev Policies MD1 and MD7a, and the adopted SDP Type and Affordability of Housing. There is no fallback position of converting the existing barn under permitted development rights as these do not exist as the barn is located within an Area of Outstanding Natural Beauty.

2. The site is located in an unsustainable location distant from any meaningful services. The site is not served by any regular public transport, and the closest bus stop is over 1km away. The lack of footway or lighting along the lanes leading to the B5477 (Ludlow Road) limit its attractiveness for pedestrians/cyclists especially during the hours of darkness. Therefore, resulting in future occupants of the property being heavily reliant on the private car for a considerable amount of their journeys to access services and amenities in Church Stretton. The proposed development is therefore contrary to Core Strategy Policy CS6 which seeks to create sustainable development and Government guidance contained within the National Planning Policy Framework (NPPF) 2021.

## REPORT

- 1.0 THE PROPOSAL
- 1.1 Conversion of agricultural outbuilding to form one dwelling and installation of package treatment plant (resubmission).
- 1.2 The proposed development will create a 4 bedroomed/2 bathroomed dwelling, with a dressing room, hallway, an open plan kitchen/dining room, a utility, WC and living room on the ground floor and a mezzanine floor above the north wing. The proposed sewerage treatment plant will be located to the east of the proposed dwelling.
- 1.3 The application is a resubmission of refused application 22/03300/FUL for the

Conversion of agricultural outbuilding to form one dwelling; erection of detached 3-bay garage building and installation of package treatment plant.

22/03300/FUL was refused for the following 3 reasons;

*1. The building subject to the planning application is not considered to be a heritage asset worthy of retention through conversion therefore its conversion to open market residential purposes would not accord with the provisions of policy MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (Adopted 17/12/2015).*

*2. It is considered that a detached garage of the scale and design proposed would detrimentally affect the rural amenities and character of the area and the landscape and scenic beauty of this part of the Area of Outstanding Natural Beauty. This would be contrary to the provisions of policies CS6 and CS17 of the Core Strategy, MD2 and MD12 of the Shropshire Council Site Allocations and the National Planning Policy Framework (2021).*

*3. It is considered that the siting of the detached garage will lead to less than substantial harm to the significance of the Scheduled Monument through development within its setting which is not outweighed by the public benefits. The proposal therefore contravenes the provisions of policies CS6 and CS17 of the Shropshire Core Strategy (2011), MD2 and MD13 of the Site Allocations and Management of Development Plan (2015) and the provisions of the National Planning Policy Framework (2021).*

1.4 This application differs from the previously refused scheme in that the proposed triple garage and attached lean to bin/log store has been omitted for the proposed development. Therefore, the only consideration now is whether the building is considered to be a heritage asset worthy of retention through conversion to an open market dwelling.

1.5 Other planning history on the site comprises;  
Application SS/1/8688/P/ Conversion of building to a dwelling and stable was refused on 09.04.98  
Application SS/1/06/18776/F Change of use of agricultural building to storage of model railway items was approved on 21.11.06

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site form existing farm buildings that once supported the main house of Brockhurst to the north (but which is now divided up into 11No flats). Both the agricultural buildings and the main building are accessed off an unclassified road to the south of the Ludlow Road (B 5471). The access track to the application buildings is partially tree lined on the west side. There are also several trees around the fields that these buildings are located in. This access track is a

relatively new addition as it does not show up on the Council's records in 1999. Neither are the farm buildings historical as they do not appear on the 2<sup>nd</sup> edition historical mapping.

2.1.2 The buildings subject to the planning application is single storey comprising a flat roof section and a larger pitched roof section. The construction includes a concrete frame with concrete block infills, the pitched roof part of the building is finished with corrugated sheeting. There is also another mono pitch building is of a substantially wooden construction. The Planning Statement refers to the barn as being redundant, however the HIA states; The long-established current use of the site involves use of woodworking machinery, external storage of materials and frequent activity of agricultural vehicles. The Structural Report also notes that the building is in use in terms of storage. Both reports also contain photographs which show that the building is still in use.

2.1.3 To the south of the buildings is the Scheduled Ancient Monument (SAM) of Brockhurst Castle, whilst to the east beyond fields is the main railway line between Hereford and Shrewsbury. The A49 is to the east of the railway. The application site is within the Shropshire Hills Area of Outstanding Natural Beauty.

2.1.4 To the west of the buildings which are sited on a raised area of ground along with the SAM and Brockhurst itself, the ground drops away to the valley beyond. Beyond Brockhurst to the west it is also steeply sloping and there is an ancient woodland between the main building and the dwelling units that front onto the Ludlow Road here.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposed development is not considered to accord with the requirements of the Council's relevant adopted policies. However, the Ward Councillor has called in the application for a determination of the application by Committee under the terms of the scheme of delegation to officers as set out in Part 8 of the Council Constitution.

4.0 Community Representations

4.1 Consultee Comments

**SC Highways** - No Objection subject to the development hereby approved being constructed in accordance with approved details.

**SC SUDs** – no objections - pre commencement condition in respect SWS and FWS suggested.

**SC Affordable Houses** - The agent is required to complete and submit an affordable housing proforma to ensure that the correct affordable housing contribution is being proposed. Any permission should be subject to a S106 to

secure the contribution.

**SC Conservation (Historic Environment)** – The building in question is not of an age or traditional construction to be considered a heritage asset worthy of retention through conversion, therefore, the proposal would not accord with policy MD7a of the SAMDev in this instance and we would have no further conservation comments to make.

**SC Archaeology (Historic Environment)** – to be reconsulted

**SC Ecology** – No objection. Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

**Historic England** – The revised application has excluded a detached garage that would have contributed to an overall level of harm that the development proposal would have caused to the significance of the nearby site of Brockhurst Castle, National Heritage List for England ref: 1010724. The current proposal is therefore an improvement than 22/03300, although would still have some impact upon the nearby Castle site through development within its setting.

**Ancient Monuments Society** – no response received

**Shropshire Hills AONB Partnership** – neutral and advises that the planning authority has a legal duty to take into account the purposes of the AONB designation in making this decision, and should take account of planning policies which protect the AONB, and the statutory AONB Management Plan.

Public Comments

Church Stretton Parish Council – objects. Full comments can be accessed via [23/00820/FUL | Conversion of agricultural outbuilding to form one dwelling and installation of package treatment plant \(resubmission\) | Barn To The Rear Of Brockhurst Church Stretton Shropshire](#)

However, the main objections are;

- Outside the Town Development Boundary
- Represents an isolated development within the AONB
- Close to and within the proximity of a Heritage Asset
- Creation of Precedent

A Site Notice has publicised the application. Five representations have been received. Full comments are available at the above link however comments are summarised below;

Strettons Civic Society – The Written Ministerial Statement (WMS) does not carry sufficient weight to override the development plan which carries prime importance in determining the application. We conclude that there are no overriding material considerations in this case and as the proposal does not involve a heritage asset it fails to comply with policy MD7a of the adopted Shropshire SAMDev Plan.

### Neighbour comments

- Landscaping on this site is particularly important in this sensitive area, with its proximity to the adjacent Heritage Site but no details have been provided at this stage.
- The conversion will transform the redundant barn on a brownfield site
- The house will not increase the size of the building
- The building will make it more in keeping with the agricultural nature of the area.
- An Eco house should set standards
- It will bring a young family to the area using local shops and schools.
- The existing agricultural buildings are unattractive, and their use can on occasions give rise to noise and smoke disturbance. Conversion to a single-family dwelling as proposed would improve the outlook from our property and garden and reduce disturbance.
- If planning consent is granted, we feel that conditions should be imposed to minimise light pollution, ensure a good standard of landscaping is adopted and wildlife is not disturbed.

## 5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design of structure and impact upon the character and appearance of the Area of Outstanding Natural Beauty

Heritage Considerations

Highway safety

Ecology

Residential Amenity

Affordable Housing

## 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. The National Planning Policy Framework (NPPF) also advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF is a material consideration that constitutes guidance for local planning authorities as a material consideration to be given weight in

determining applications.

- 6.1.2 A key objective of both national and local planning policy is to focus new residential development in locations which promote economic, social and environmental sustainability. The Development Plan for Shropshire comprises the Core Strategy 2011 and the SAMDev Plan 2015. The Local Plan is in the process of being reviewed, however it is not yet adopted hence the adopted policies still carry full weight. Specifically, Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new housing to sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters'). These are identified in the Council's adopted Site Allocations and Management of Development (SAMDev) Plan. Therefore, isolated or sporadic new housing in open countryside (i.e. on sites outside the named settlements) is generally regarded as unacceptable unless there are exceptional circumstances, or other relevant material considerations which outweigh the statutory priority to be given to the local development plan.
- 6.1.3 Policy CS4 of the CS sets out how new housing will be delivered in the rural areas by focusing it in Community Hubs and Community Clusters, which are identified in Policy MD1 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015. Policy MD1 of the SAMDev identifies those settlements that fall within a Community Hub or Community Cluster. Policy CS11 of the CS seeks to ensure that development creates mixed, balanced and inclusive communities.
- 6.1.4 Policy CS5 only allows new development in the open countryside where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. This aligns with paragraph 79 of the NPPF. Policy CS5 also provides a list of particular development that it relates to including dwellings the conversion of rural buildings.
- 6.1.5 Policy CS5 is complemented by Policy MD7a, which goes on to state that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. In the case of open market residential conversions, requiring planning permission, the conversion of buildings to open market use will only be acceptable where the building is of a design and form which is of merit for its heritage/landscape value, minimal alteration or rebuilding is required to achieve the development and the conversion scheme would respect the significance of the heritage asset, its setting and the local landscape character.
- 6.1.6 Under the current adopted SAMDev Plan, Brockhurst lies outside any Development Boundaries. It is therefore open countryside, and the principle of a new open market dwelling here would therefore be in conflict with Core Strategy Policy CS5 and SAMDev Policies MD1 and MD7a.
- 6.1.7 Recent appeal decisions support the Council's position that it has a sufficient five-

year supply of housing land, and consequently that its policies on the amount and location of residential development should be regarded as up-to-date, and that there is no pressing need to bring forward sites outside the designated settlements unless one of the CS5/MD7a exceptions is met.

- 6.1.8 Local policies do not expressly prohibit new market housing on 'windfall' sites outside the designated settlements, where they were considered to accord with the National Planning Policy Framework (NPPF) presumption in favour of sustainable development.
- 6.1.9 In this instance, however, it is difficult to argue that the creation of a new dwelling would be environmentally sustainable given the site's distance from any services, the lack of a safe pedestrian route or regular public transport services, the absence of any community services or facilities nearby, and therefore the occupants would be heavily reliant on a motor vehicle to access any amenities.
- 6.1.10 Moreover, the economic benefits (e.g. in terms of boosting housing supply, generating construction jobs & local spending) would be modest and equally applicable to other developments in more policy compliant locations.
- 6.1.11 The Planning Statement refers to 3 Nissen huts associated with WW2 being on the site, and an historic barn formally associated with Monks living in nearby in Brockhurst. However, the existing modern barn 'which was adapted to its current form in 2006', has no architectural or historic merit. For avoidance of doubt, the barn is described below in paragraph 6.1.13.
- 6.1.12 SC Conservation (Historic Environment) has confirmed that the building in question is not of an age or traditional construction to be considered a heritage asset worthy of retention through conversion, therefore, the proposal would not accord with policy MD7a of the SAMDev Plan, or the criteria noted in paras 2.27 - 2.29 of the adopted Shropshire Type and Affordability of Housing SPD 2012.
- 6.1.13 The modern construction materials and utilitarian appearance of the building is described in the submitted Structural Survey as noted pointed below;

The front elevation is concrete block walls between precast concrete units and corrugated sheeting above eaves level to the gable. There is a steel frame to form the structural opening for a pedestrian access door and a roller shutter door.

#### Right-hand Side Elevation

The right-hand side elevations consist of four bays of the precast units and infill block wall.

#### Left-hand Side Elevation

The infill blocks to the lower side are hollow, several blocks are broken exposing the inner cells. Part way up the wall the hollow blocks are laid on edge with newer



blocks over to eaves level.

#### Rear Elevation

The rear elevation is made up of several sections, to the left-hand side the walls are the precast units with block infill and a steel frame for a personnel door.

#### Ceiling/Roof

The roof is corrugated metal sheet supported on timber rafters and purlins spanning between king post trusses supported off the precast units.

- 6.1.14 Accordingly, the conversion of the modern utilitarian building to a residential use is contrary to adopted planning policy and is therefore unacceptable in principle and would result in an open market dwelling in an unsustainable location in the open countryside.
- 6.1.15 The planning statement also talks about conversion of former agricultural buildings to residential use under Schedule 2 Part 3 Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2012 (GPDO) which, subject to limitations, permits the conversion of former agricultural buildings to dwellinghouses under permitted development i.e. without the need to apply for full planning permission.
- 6.1.16 This legislation is not deemed relevant in this instance as Class Q specifically excludes buildings which are located in an AONB. Therefore, there is no 'fallback position' which needs to be considered as a material planning consideration, and as such the authority is obliged to consider all relevant planning policies of the Development Plan.
- 6.1.17 The possibility of including solar panels on the roof and recycling rainwater is noted and laudable. Likewise, the use of high insulation values, however this would be required by Building Regulations and should not be seen as an exceptional circumstance which outweighs the conflict with the adopted planning policies in terms of the principle of an open market dwelling on this unsustainable open countryside site.
- 6.1.18 If approved, this development would undermine other elements of the development strategy for the County such as to direct development to areas with greatest access to facilities.
- 6.1.19 Therefore, the proposal is fundamentally unacceptable. The proposal would not be a suitable site for housing, with regard to the Council's housing strategy and would fail to accord with Policy CS4 of the Core Strategy and Policies MD1& MD3 of the SAMDev regarding the scale and distribution of housing development in the area.
- 6.2 Siting, scale and design of structure and impact upon the character and appearance of the Area of Outstanding Natural Beauty

- 6.2.1 Section 12 of the NPPF places an emphasis on achieving good design and Policy MD2 expects development proposals to contribute to and respect locally distinctive or valued character and existing amenity value. Policy CS6 deals with Sustainable Design and Development Principles. This requires that all development is designed to a high standard which respects and enhances local distinctiveness, and which mitigates and adapts to climate change. The development should also protect, conserve, and enhance the natural, built and historic environment and be appropriate in scale, pattern and design considering the local context and character having regard to national and local design guidance. Policy CS17 particularly notes that all development should have regard to the Shropshire Hills ANOB. Policy MD12 seeks the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration. Furthermore, para 176 of the NPPF states that; *'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.'*
- 6.2.2 The single storey form of the existing building would be retained as part of the conversion. The shape of the windows provides a vertical emphasis to the design. Externally the palette of materials includes wooden cladding. None of these elements of the proposal are objectionable in the rural context of this development and it is acknowledged that they would contribute towards an improvement to the visual amenity of the immediate area. In reaching the conclusion above regard has also been taken of the Shropshire Hills AONB Management Plan 2019-24 including policies P1 and P4.
- 6.3 Heritage Considerations
- 6.3.1 Chapter 16 of the NPPF, policies CS17 & MD13, Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 and Historic England's guidance on The Adaptive Reuse of Traditional Farm Buildings (HEAN 9) and Adapting Traditional Farm Buildings Best Practice Guidelines are relevant in determining this application.
- 6.3.2 To the south of the farm buildings is the Scheduled Ancient Monument (SAM) of Brockhurst Castle. A HIA is submitted with the planning application and in terms of the impact on the SAM it concludes that the development would be less than substantial and would likely constitute an enhancement to the existing permitted use of the site.
- 6.3.3 Historic England (HE) consider that the current proposal is an improvement to 22/03300/FUL, although it would still have some impact upon the nearby Castle site through development within its setting. HE previously considered that the

biggest impact to be the additional peripheral structures which come with a residential property i.e. garden sheds, greenhouses, children's play equipment etc. They therefore recommended that if planning permission is granted the council formalise by planning conditions or other agreement, the limitation of permitted development rights for the development so that the rural agricultural nature of the setting is retained.

6.3.4 In this regard, Schedule 2 Part 1 Class E of the GPDO permits the erection of buildings incidental to the enjoyment of the dwellinghouse (sheds, outbuildings, swimming pools & oil tanks etc), without the need to apply for planning permission. However, these permitted development (PD) rights do not apply in this instance due to the development's location within the AONB.

6.3.5 Nevertheless, many of the activities and structures (e.g. trampolines, climbing frames, swings, washing lines), which generally take place within a residential curtilage would not comprise development such that they could not be controlled by a planning condition. It is acknowledged that there are currently agricultural type activities and storage presently occurring outside the buildings, which would cease as a result of the development. This type of agricultural activity is not unusual or out of character in a rural setting. However, the domestication of the proposed 0.1ha site and the resultant items of domestic paraphernalia and clutter could adversely impact upon the rural and historic setting of the nearby SAM, but this could not be controlled.

6.4 Highway Safety

6.4.1 Policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic to be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car-based travel reduced. It seeks to achieve safe development and where the local road network and access to the site is capable of safely accommodating the type and scale of traffic likely to be generated.

6.4.2 Paragraphs 110 - 111 of the NPPF states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and that:

*“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

6.4.3 In this respect, the property is fairly remotely located and is accessed by a private track. The potential change in traffic associated with the proposed barn conversion of what is already experienced in the area is considered unlikely to have a material impact on the adjoining public highway.

## 6.5 Ecology

6.5.1 SC Ecology have reviewed the submitted Ecological Impact Assessment carried out by Churton Ecology (January 2022), which found the site to support habitats of low biodiversity value. Bats and breeding birds are considered to be important ecological features of the site however no further surveys were recommended. In the event a bat is found during works, works must stop and NE or a licensed ecologist must be contacted for advice on how to proceed.

6.5.2 SC Ecology require biodiversity net gains at the site in accordance with the NPPF and policy CS17. Accordingly, conditions could require the installation of bat boxes/integrated bat tubes and bird boxes to enhance the site for wildlife by providing additional roosting and nesting habitat.

## 6.6 Residential Amenity

6.6.1 The proposal will create a generous 4 bed (8 person) property on a large 0.1ha plot (excluding the access drive), with additional pastureland.

6.6.2 Given the separation distances between the site and the existing dwellings in the area (the closest being approx. 114m to the northwest), there will be no impact upon residential amenity.

## 6.7 Affordable Housing

6.7.1 Paragraph 64 of the National Planning Policy Framework provides that "affordable housing should not be sought for residential developments that are not major developments". Major development is defined within the NPPF as 'for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 ha or more'.

6.7.2 The application form indicates a site area of 0.5 ha and therefore is considered to constitute a major development and Council Policy at CS11 will apply. Policy CS 11 requires all new residential development to contribute towards affordable housing. The Type and Affordability of Housing Supplementary Planning Document provides the details for such contributions.

6.7.3 The agent is required to complete and submit an affordable housing proforma to ensure that the correct affordable housing contribution is being proposed. Any permission should be subject to a S106 to secure the contribution.

## 7.0 CONCLUSION

7.1 The conversion of the modern utilitarian block work building, which is not a heritage asset worthy of retention through conversion to an open market dwelling is contrary

to adopted planning policy and is therefore unacceptable in principle and would result in an open market dwelling in an unsustainable location in the open countryside. The Council has a robust five-year housing land supply within settlements designated for development and so the housing policies of the Development Plan must be attached full weight. The proposed scheme would deliver very modest economic and social benefits in that it would contribute one open market dwelling to the overall housing stock with some additional local spending that might help to support local businesses and limited environmental benefits in the form of additional soft landscaping and the possible installation of solar PV panels on the roof, and rainwater recycling. Nevertheless, the proposal would result in a new dwelling in the open countryside for which there is no policy support in the adopted Development Plan. The proposed development is deemed to be contrary to Core Strategy Policy CS5 and SAMDev Policies MD1 and MD7a, and the adopted SDP Type and Affordability of Housing. There is no fallback position of converting the existing barn under permitted development rights as these do not exist as the barn is located within an Area of Outstanding Natural Beauty.

The site is located in an unsustainable location distant from any meaningful services. The site is not served by any regular public transport, and the closest bus stop is over 1km away. The lack of footway or lighting along the lanes leading to the B5477 (Ludlow Road) limit its attractiveness for pedestrians/cyclists especially during the hours of darkness. Therefore, resulting in future occupants of the property being heavily reliant on the private car for a considerable amount of their journeys to access services and amenities in Church Stretton. The proposed development is therefore contrary to Core Strategy Policy CS6 which seeks to create sustainable development and Government guidance contained within the National Planning Policy Framework (NPPF) 2021.

For the reasons set out above in this report, the proposal is unacceptable and unsustainable development is therefore recommended for 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

## Relevant Planning Policies

### Central Government Guidance:

National Planning Policy Framework  
National Planning Practice Guidance  
Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990  
The Adaptive Reuse of Traditional Farm Buildings (HEAN 9) and Adapting Traditional Farm Buildings Best Practice Guidelines

### Core Strategy and Site Allocations and Management of Development (SAMDev) Plan:

Core Strategy  
CS1 Strategic Approach  
CS3 The Market Towns and Other Key Settlements  
CS4 Community Hubs and Community Clusters  
CS5 Countryside and Green Belt  
CS6 Sustainable Design and Development Principles  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
CS18 Sustainable Water Management

### SAMDev Plan

MD1 Scale and Distribution of Development  
MD2 Sustainable Design  
MD3 Delivery of Housing Development  
MD7a Managing Housing Development in the Countryside  
MD12 Natural Environment.  
MD13 Historic Environment

SPD on the Type and Affordability of Housing

Shropshire Hills AONB Management Plan 2019-24

## RELEVANT PLANNING HISTORY:

22/03300/FUL Conversion of agricultural outbuilding to form one dwelling; erection of detached 3-bay garage building and installation of package treatment plant REFUSE 30th January 2023

SS/1/8688/P/ Conversion of building to a dwelling and stables REFUSE 9th April 1998

SS/1/06/18776/F Change of use of agricultural building to storage of model railway items.

PERCON 21st November 2006

# AGENDA ITEM

**Southern Planning Committee - 9th May 2023**

Barn To The Rear Of

## 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RQJX3NTDMP600>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) - Councillor Richard Marshall
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Local Member Cllr David Evans Cllr Hilary Luff
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# Agenda Item 9

## SCHEDULE OF APPEALS AS AT COMMITTEE 9 May 2023

<b>LPA reference</b>	21/03707/VAR
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Jack Goodall
<b>Proposal</b>	Variation of condition 2. to allow for amendments to the existing garage.
<b>Location</b>	Quercus Domus Pound Lane Hanwood Shrewsbury SY5 8JR
<b>Date of appeal</b>	24.05.2022
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	30.03.2023
<b>Costs awarded</b>	
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	21/03873/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr A McDonagh
<b>Proposal</b>	Proposed siting of 5 Glamping Pods and 2 Log Cabins and installation grass grid access track at existing caravan and camping site
<b>Location</b>	Withies Campsite Stretton Road Much Wenlock TF13 6DD
<b>Date of appeal</b>	19.10.22
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	03.04.2023
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	21/05109/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Michael Hunt
<b>Proposal</b>	Outline application (all matters reserved) for the erection of one dwelling with garage
<b>Location</b>	37 Baker Close Ludlow Shropshire SY8 1XJ
<b>Date of appeal</b>	03.01.2023
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	
<b>Date of appeal decision</b>	03.04.2023
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	22/01171/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Anthony Walker
<b>Proposal</b>	Erection of storage building with roof mounted solar panels
<b>Location</b>	The Cottage Nordley Bridgnorth Shropshire WV16 4SX
<b>Date of appeal</b>	03.01.2023
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	04.04.2023
<b>Costs awarded</b>	
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	22/02445/AGR
<b>Appeal against</b>	Planning Permission Required
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs Farmer
<b>Proposal</b>	Erection of general purpose agricultural building for storage of machinery and equipment.
<b>Location</b>	Chatford House Chatford Shrewsbury Shropshire SY3 0AY
<b>Date of appeal</b>	14.02.2023
<b>Appeal Method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	11.04.2023
<b>Costs awarded</b>	
<b>Appeal decision</b>	Appeal Withdrawn

<b>LPA reference</b>	21/04271/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr S Thomson
<b>Proposal</b>	Conversion of existing Dutch Barn to provide 1No. dwelling
<b>Location</b>	Proposed Residential Conversion Of Dutch Barn At High Barns Six Ashes
<b>Date of appeal</b>	21.11.2022
<b>Appeal method</b>	Written representation
<b>Date site visit</b>	16.01.2023
<b>Date of appeal decision</b>	12.04.2023
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	22/04882/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Aequus Land Ltd
<b>Proposal</b>	Outline application for the erection of 1No. detached dwelling
<b>Location</b>	Land Adjacent Limes Paddock Dorrington Shrewsbury Shropshire
<b>Date of appeal</b>	17.04.2024
<b>Appeal method</b>	Written representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	



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# Appeal Decision

Site visit made on 27 July 2022

**by Helen Smith BSc (Hons) MSc MA MRTPI**

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

**Decision date: 30 March 2023**

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**Appeal Ref: APP/L3245/W/22/3291942**

**Quercus Domus, Pound Lane, Hanwood, Shrewsbury, Shropshire SY5 8JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A 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 Jack Goodall against the decision of Shropshire Council.
  - The application Ref 21/03707/VAR, dated 20 September 2021, was refused by notice dated 14 December 2021.
  - The application sought planning permission for erection of a 2-bed affordable dwelling and detached double garage without complying with a condition attached to planning permission Ref 13/01656/FUL, dated 18 June 2014.
  - The condition in dispute is No 2 which states that: "*The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plan Number 01/01 Rev D received on 21<sup>st</sup> May 2014.*"
  - The reason given for the condition is: "*For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.*"
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## Decision

1. The appeal is allowed and planning permission is granted for erection of a 2-bed affordable dwelling and detached double garage at Quercus Domus, Pound Lane, Hanwood, Shrewsbury, Shropshire SY5 8JR in accordance with the application Ref 21/03707/VAR, dated 20 September 2021, without complying with condition no 2 set out in the planning permission Ref 13/01656/FUL dated 18 June 2014 by Shropshire Council, but otherwise subject to the conditions set out in the attached schedule.

## Preliminary Matters

2. The development has been constructed on site. However, the building constructed is different to that which was originally approved. Therefore, the appeal seeks retrospective planning permission to vary planning permission ref 13/01656/FUL, which was granted for the erection of a 2-bed affordable dwelling and detached double garage. The revision sought is to vary the plans in respect of the location, size and design of the detached building.
3. The appeal site has been subject to a previous appeal decision (APP/L3245/W/19/3222930). The appeal was allowed and removed conditions no 8, 9 and 10 previously imposed on planning permission ref: 13/01656/FUL.
4. The appellant has submitted a revised S106 agreement, dated 3 March 2023. This variation to the original S106 agreement (dated 11 June 2014) was necessary to ensure that the development continues to be defined as an affordable dwelling, should this appeal be granted permission.

## **Main Issue**

5. The main issue is whether varying condition 2 would be acceptable, having regard to the character and appearance of the site and the surrounding area.

## **Reasons**

6. The appeal building is in the north-eastern part of the appeal site, close to the boundary with the A488 and adjacent to the main dwelling. Opposite the appeal building is an area of garden to an adjoining property which comprises an outbuilding.
7. The nearby dwellings and outbuilding adjacent to the appeal site form a cluster of buildings. The character of the surrounding area is, however, predominantly spacious and verdant, due to the areas of open agricultural land.
8. The size of the appeal building's footprint remains the same as the original approval. Whilst the development's positioning has changed from the original approval, it is sited close to the existing buildings on site and would therefore not appear out of place in the context of these neighbouring buildings. Furthermore, the scale and height of the development is comparable in scale to the neighbouring outbuilding, and given its closer relationship to this outbuilding, the development would not appear unduly prominent.
9. The appeal building is visible in public views taken from the A488, both to motorists and pedestrians. However, the appeal building's road facing elevation is partly screened by the mature boundary vegetation adjacent to the A488. The development's pitched roof integrates with the gable roof forms of the nearby dwellings. As a result, it is not particularly prominent in height or appearance when viewed from the road. Furthermore, the clustering of the buildings, of which the appeal building forms a part of, reduces the visual impact of the development from the road. In comparison, the original approval would have been sited further away from the existing buildings, but still sited close to the road. In my judgement, this would have made it appear more prominent than the proposal before me.
10. The appeal building is constructed in brick and the roof structure is covered with plain tiles. The use of matching construction materials contributes to the appeal building being seen as a natural addition to the host dwelling rather than an incongruous new feature. Furthermore, the development's external materials also relate well to the neighbouring buildings.
11. The Juliette balcony in the front elevation and the roof-lights in the westerly facing roof pitch give the first floor of the building a simple domestic appearance and would maximise natural light and ventilation into the building. In addition, there are limited public views of the Juliette balcony, given its positioning and orientation away from the road. The external staircase fixed to the north elevation has an unobtrusive design.
12. For the reasons above, I find that the development does not cause unacceptable harm to the character and appearance of the site or the surrounding area. As such, the development complies with Policy CS6 of Shropshire Council's Local Development Framework: Adopted Core Strategy (March 2011), and Policy MD2 of Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015). Collectively, these

policies, amongst other things, seek to ensure development is designed to a high quality which respects local distinctiveness.

13. I therefore conclude that, having regard to the development plan and all other material considerations, the variation of condition 2 would be acceptable.

### **Other Matters**

14. The appellant has indicated that they wish to seek approval for an extension of the residential curtilage into land west of the original approval. However, this would need to be subject to a separate planning application for a change of use. Therefore, this is not a matter for consideration under this appeal.
15. Concern has been raised about potential overlooking to neighbouring properties, particularly from the external staircase and the balcony. However, the development does not result in a loss of privacy to neighbouring residents due to the sufficient separation distances between the appeal building and the neighbouring dwellings. Furthermore, the external staircase at first floor level leads to an entrance that has a solid composite door with no vision panel.
16. The Parish Council has raised concern about maintaining the appeal building as an affordable home. However, for the reasons set out in the Preliminary Matters section above, the revised S106 agreement that sits alongside the planning permission I intend to grant by allowing this appeal, will ensure that the dwelling will continue to be defined as an affordable dwelling.

### **Conditions**

17. I have deleted the disputed condition 2 as indicated above and replaced it with an amended one which specifies new approved plans for the development allowed. As suggested by the Council, I have imposed a new condition to restrict the use and/or occupancy of the garage block for purposes ancillary to Quercus Domus. This condition is necessary to prevent occupancy of the garage block as a separate dwelling.
18. The Planning Practice Guidance (PPG) makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.
19. Due to the previous appeal decision (APP/L3245/W/3222930), conditions 8, 9 and 10 have been removed from the original permission. Accordingly, I do not need to re-impose these conditions.
20. The Officer's report states that conditions 3 (External Materials), 4 (Boundary Treatments), 5 (Foul & Surface Water), and 6a (Land Contamination) of the original permission have been discharged (14/04658/DIS). Therefore, these conditions are no longer necessary.
21. With the exception of the standard time limit, which is no longer required as the development permitted has already been substantially implemented, I have no information before me to suggest that any of the other conditions are no longer necessary or relevant. I have therefore imposed all the other conditions attached to the original permission (13/01656/FUL), with only minor drafting modifications where this has been necessary.

## **Conclusion**

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

*Helen Smith*

INSPECTOR

## **Schedule of Conditions**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - a) Proposed Site Plan, Drawing No: 121.001
  - b) Proposed Drawings, Drawing No: 121.002
  - c) Location, Block, Floor Plans & Elevations, Drawing No: 01/01 Rev D, except in respect of those details relating to the garage block shown on Drawing No 01/01 Rev D
- 2) The development hereby permitted shall be constructed to a minimum of an equivalent to the Code for Sustainable Homes Level 3, for energy and water efficiency and thereafter maintained as such.
- 3) The garage block hereby permitted shall only be used and/or occupied for purposes ancillary to the residential occupation of Quercus Domus.

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





# Appeal Decision

Site visit made on 7 February 2023

**by Samuel Watson BA (Hons) MSc MRTPI**

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

**Decision date: 03 April 2023**

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**Appeal Ref: APP/L3245/W/22/3304264**

**Withies Campsite, Stretton Road, Much Wenlock TF13 6DD**

- 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 A McDonagh against the decision of Shropshire Council.
  - The application Ref 21/03873/FUL, dated 5 August 2021, was refused by notice dated 17 March 2022.
  - The development proposed is the siting of 5 Glamping Pods and 2 Log Cabins and installation of grass grid access track at existing caravan and camping site.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development was changed during the planning application process with agreement between the two parties. Consequently, and as it concisely describes the proposal, I have used this amended description in the header above.

## Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding landscape, including the Shropshire Hills Area of Outstanding Natural Beauty (the AONB).

## Reasons

4. The appeal site is outside of, but seen in relation to, the AONB. From my observations on site, and the evidence before me, I find that the special qualities of the AONB stem, in part, from the varied landscape of predominantly farms and woodland set across hills and valleys. The site is surrounded by fields, with sporadic development within the wider area, and Much Wenlock beyond that. The appeal site itself forms part of a sloping field which rises up away from Stretton Road. The field is bounded by hedgerows on all sides, with the agricultural and campsite portions separated by a low fence. Further planting has been laid along the access forming an overlap with that along the roadside.
5. The site contains a shower block and a small children's play area as well as space for four shepherd huts, although only one hut was present at the time of my visit. The centre of the site is clear of built development but is where permission is present for the siting of 16 tents and 5 touring caravans. Overall,

the site presents an informal character that is not intrusive within the surrounding rural landscape.

6. The proposal would introduce a new row of development, 5 glamping pods and 2 log cabins, along the front of the site adjacent to the recently constructed access. I note that the hedgerows and trees around the site provide some softening of views but, the nature of the planting does not block all views and so does not provide complete screening. Moreover, although the planting along the front is young and likely to grow, I cannot be certain that it would grow sufficiently to suitably screen the development in views through or over the hedgerow. Furthermore, it would not be possible to control the planting scheme for the lifetime of the development and any screening could easily be lost as a result of the hedgerow dying, being cut back or removed entirely.
7. Consequently, I find that the cabins would be significant and prominent features as a result of their elevated position above Stretton Road at the front of the site. Moreover, they would not reflect the temporary and informal nature of the accommodation that characterises this site, or the agricultural character of the surrounding area. The glamping pods would result in a similar impact, although, given their smaller scale and the siting of some further from the road, this would be more limited. Nevertheless, harm would still occur.
8. Furthermore, when taken cumulatively, the development would lead to an intensification of the use on site and of the built development present. This would be jarring with the surrounding fields and woodland which are primarily open without built development. The harm would be especially acute given the site is within the setting of the AONB where it would harm the appreciation the area in long distance views.
9. Although I am mindful of the buildings, and former quarries, within the surrounding area, these are some distance away and are largely small or compact developments that do not significantly alter the character and appearance of the surrounding area or justify the proposal.
10. The proposal, as a result of its scale and siting, would harm the character and appearance of the site and its contribution to the surrounding landscape, including the setting of the AONB. The proposal would therefore conflict with Policies CS5, CS6, CS16 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy, Policies MD2, MD11 and MD12 of the Shropshire Council Sites Allocations and Management of Development Plan, and Policies GQD1, GQD2, EJ7 and LL3 of the Much Wenlock Neighbourhood Plan 2013-2026. These policies collectively, and amongst other matters, require developments to be of a high quality that reflects and complements their context, and countryside location, so as to maintain or enhance its character. They also require particular regard to be paid to the AONB. The proposal would also conflict with the National Planning Policy Framework with particular regard to Paragraph 8c and chapter 12, including Paragraph 130, which seek for developments to protect the natural environment and be sympathetic to their landscape setting.

### **Other Matters**

11. The appellant has referenced stringent health and safety regulations and that it would not be acceptable to operate the camp site in a "back to basics" way. However, it has not been demonstrated that any health and safety concerns

exist on site or in the way it is operated. I have therefore given this matter little weight in my considerations.

12. No substantive evidence has been supplied to demonstrate that the existing level of demand at the site is such that an expansion would be necessary or that it would result in any meaningful benefit to the local economy. Therefore, and although the development plan supports rural tourism facilities, this is only where it would not result in harm to the landscape character and appearance. Furthermore, whilst the appeal site may provide good access to the countryside and public rights of way, given its close relationship with them, this does not outweigh the harm identified above.

### **Conclusion**

13. The proposal would harm the character and appearance of the area and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*Samuel Watson*

INSPECTOR

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# Appeal Decision

Site visit made on 7 February 2023

**by Samuel Watson BA (Hons) MSc MRTPI**

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

**Decision date: 03 April 2023**

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**Appeal Ref: APP/L3245/W/22/3304264**

**Withies Campsite, Stretton Road, Much Wenlock TF13 6DD**

- 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 A McDonagh against the decision of Shropshire Council.
  - The application Ref 21/03873/FUL, dated 5 August 2021, was refused by notice dated 17 March 2022.
  - The development proposed is the siting of 5 Glamping Pods and 2 Log Cabins and installation of grass grid access track at existing caravan and camping site.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development was changed during the planning application process with agreement between the two parties. Consequently, and as it concisely describes the proposal, I have used this amended description in the header above.

## Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding landscape, including the Shropshire Hills Area of Outstanding Natural Beauty (the AONB).

## Reasons

4. The appeal site is outside of, but seen in relation to, the AONB. From my observations on site, and the evidence before me, I find that the special qualities of the AONB stem, in part, from the varied landscape of predominantly farms and woodland set across hills and valleys. The site is surrounded by fields, with sporadic development within the wider area, and Much Wenlock beyond that. The appeal site itself forms part of a sloping field which rises up away from Stretton Road. The field is bounded by hedgerows on all sides, with the agricultural and campsite portions separated by a low fence. Further planting has been laid along the access forming an overlap with that along the roadside.
5. The site contains a shower block and a small children's play area as well as space for four shepherd huts, although only one hut was present at the time of my visit. The centre of the site is clear of built development but is where permission is present for the siting of 16 tents and 5 touring caravans. Overall,

the site presents an informal character that is not intrusive within the surrounding rural landscape.

6. The proposal would introduce a new row of development, 5 glamping pods and 2 log cabins, along the front of the site adjacent to the recently constructed access. I note that the hedgerows and trees around the site provide some softening of views but, the nature of the planting does not block all views and so does not provide complete screening. Moreover, although the planting along the front is young and likely to grow, I cannot be certain that it would grow sufficiently to suitably screen the development in views through or over the hedgerow. Furthermore, it would not be possible to control the planting scheme for the lifetime of the development and any screening could easily be lost as a result of the hedgerow dying, being cut back or removed entirely.
7. Consequently, I find that the cabins would be significant and prominent features as a result of their elevated position above Stretton Road at the front of the site. Moreover, they would not reflect the temporary and informal nature of the accommodation that characterises this site, or the agricultural character of the surrounding area. The glamping pods would result in a similar impact, although, given their smaller scale and the siting of some further from the road, this would be more limited. Nevertheless, harm would still occur.
8. Furthermore, when taken cumulatively, the development would lead to an intensification of the use on site and of the built development present. This would be jarring with the surrounding fields and woodland which are primarily open without built development. The harm would be especially acute given the site is within the setting of the AONB where it would harm the appreciation the area in long distance views.
9. Although I am mindful of the buildings, and former quarries, within the surrounding area, these are some distance away and are largely small or compact developments that do not significantly alter the character and appearance of the surrounding area or justify the proposal.
10. The proposal, as a result of its scale and siting, would harm the character and appearance of the site and its contribution to the surrounding landscape, including the setting of the AONB. The proposal would therefore conflict with Policies CS5, CS6, CS16 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy, Policies MD2, MD11 and MD12 of the Shropshire Council Sites Allocations and Management of Development Plan, and Policies GQD1, GQD2, EJ7 and LL3 of the Much Wenlock Neighbourhood Plan 2013-2026. These policies collectively, and amongst other matters, require developments to be of a high quality that reflects and complements their context, and countryside location, so as to maintain or enhance its character. They also require particular regard to be paid to the AONB. The proposal would also conflict with the National Planning Policy Framework with particular regard to Paragraph 8c and chapter 12, including Paragraph 130, which seek for developments to protect the natural environment and be sympathetic to their landscape setting.

### **Other Matters**

11. The appellant has referenced stringent health and safety regulations and that it would not be acceptable to operate the camp site in a "back to basics" way. However, it has not been demonstrated that any health and safety concerns

exist on site or in the way it is operated. I have therefore given this matter little weight in my considerations.

12. No substantive evidence has been supplied to demonstrate that the existing level of demand at the site is such that an expansion would be necessary or that it would result in any meaningful benefit to the local economy. Therefore, and although the development plan supports rural tourism facilities, this is only where it would not result in harm to the landscape character and appearance. Furthermore, whilst the appeal site may provide good access to the countryside and public rights of way, given its close relationship with them, this does not outweigh the harm identified above.

### **Conclusion**

13. The proposal would harm the character and appearance of the area and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*Samuel Watson*

INSPECTOR

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# Appeal Decision

Site visit made on 6 March 2023

**by Ben Plenty BSc (Hons) DipTP MRTPI**

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

**Decision date: 4<sup>th</sup> April 2023**

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**Appeal Ref: APP/L3245/W/22/3305728**

**The Cottage, Nordley, BRIDGNORTH WV16 4SX**

- 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 Anthony Walker against the decision of Shropshire Council.
  - The application Ref 22/01171/FUL, dated 25 February 2022, was refused by notice dated 29 April 2022.
  - The development proposed is the erection of agricultural store with roof mounted solar panels.
- 

## Decision

1. The appeal is allowed, and planning permission is granted for the erection of agricultural store with roof mounted solar panels at The Cottage, BRIDGNORTH WV16 4SX in accordance with the terms of the application, Ref 22/01171/FUL, dated 9 March 2022, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 2021-276-01, Proposed block plan 2021-276-02, and Proposed elevations and floor plan 2021-276-07 rev G.

## Preliminary Matters

2. Policy MD7a, of the Council's Site Allocations and Management of Development (SAMDev) Plan, is referenced in its reason for refusal. However, this policy refers to managing housing development in the countryside and is not therefore relevant to the proposal. However, the Council has stated in its Statement of Case that the proposal would be contrary to policy MD7b. This policy relates to the management of development in the countryside and is therefore germane to the merits of the proposal. I have therefore considered the appeal against policy MD7b, rather than MD7a, without causing prejudice to any party.
3. An appeal was dismissed<sup>1</sup> in 2020 for development that included the change of use of the paddock to residential use. In that decision the Inspector found that the domestication of the rural site would not respect the local context or character of the area. The Inspector also considered that the site could be used as a small paddock, despite its small size, due to being sited alongside an

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<sup>1</sup> Planning Appeal Reference: APP/L3245/W/19/3238872

access track. I shall take this decision into account in my consideration of this appeal.

### **Main Issue**

4. The main issue is the effect of the proposed development on the character and appearance of the area.

### **Reasons**

5. The appeal site is within the small hamlet of Nordley, accessed from the B4373. The site is an area of paddock land to the side of a residential plot, with no clear physical boundary between these components. The paddock is largely undeveloped save for a concrete slab close to the boundary with the dwelling. The site is within a dispersed settlement. Local buildings consist of a combination of dwellings and barns, some within domestic grounds, whilst others provide for agrarian use. Local agricultural buildings consist of a variety of materials including metal cladding and brick. The site is adjacent to a public footpath and bridleway providing views into the site through breaks in the hedge boundary. The site slopes down gradually from this hedge to the south and provides views of the surrounding countryside through hedge field boundaries. Due to its undeveloped and open nature the site makes a positive contribution to the character and appearance of its surrounding rural setting.
6. The proposed barn would be located upon the concrete slab. It would be single storey with a relatively tall ridge. The proposed brick and aluminium materials would be in keeping with existing outbuildings and barns found within the local area. Having only two roof lights and solid doors, the barn would have an agricultural character that would complement its rural setting. The previous appeal decision found that the proposed residential use would result in the domestication of the rural site. Whereas this proposal would support the existing agricultural use of the site.
7. The evidence indicates that the Council finds the principal of an agricultural building to be acceptable. SAMDev Policy MD7b requires new agricultural buildings to be a) of a size/scale consistent with its required agricultural purposes and the agricultural enterprise it is intended to serve, b) be well designed and closely related to existing farm buildings and c) have acceptable impacts on environmental quality and neighbour's living conditions. However, the policy does not require buildings to be commensurate to the size of the site they are within, and it's explanatory text does explain how a building would be determined as being an appropriate size.
8. Nevertheless, the Appellant has explained that the building would be used to accommodate a range of agricultural equipment and vehicles. It would be of an appropriate scale to accommodate the equipment listed for its intended purpose within a building of relatively modest size and scale. Therefore, whilst the paddock is relatively small, the list of items sought to be stored relate to agricultural activity and the scale of the building. Consequently, it's size would be reasonable and not excessive.
9. Furthermore, the proposed barn would be read in the context of adjacent buildings, including the existing dwelling, and clustering with existing built-form. As such, the proposed barn would blend in with the existing pattern of development, especially the barns to the north of the site beyond the

bridleway. Consequently, the proposal would not materially erode the open and rural character of the site or its context within the surrounding countryside.

10. For these reasons, the proposed building would complement the character and appearance of the area. Accordingly, the proposal would satisfy policies CS5, CS6 and CS17 of the Core Strategy, policies MD2 and MD7b of the SAMDev, and the National Planning Policy Framework. These policies seek, among other matters, for agricultural buildings to be consistent with the nature of the agricultural enterprise it is intended to serve and to respect local architectural design.

### **Conditions**

11. It is necessary to apply conditions in connection with a commencement period and to list the approved plans to define the permission and accord with the advice within the Planning Practice Guidance. The Council has offered three conditions in the event that the appeal be allowed. Its third condition requires the building be used only for purposes incidental to the adjacent dwelling and for it not to be used as a dwellinghouse. However, such a condition would prevent the barn being used for broader agricultural purposes in the wider area which would be an unreasonable restriction. Furthermore, to prevent it from being used as a dwelling separate to 'The Cottage' or a commercial use would require a material change of use and is therefore also unnecessary.

### **Conclusion**

12. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed, and planning permission be granted subject to the listed conditions.

*Ben Plenty*

INSPECTOR

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# The Planning Inspectorate

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Your Ref: 22/02445/AGR

Our Ref: APP/L3245/W/22/3313154

Celia Kilgannon  
Shropshire Council  
Central Team  
Shirehall  
Abbey Foregate  
Shrewsbury  
SY2 6ND

11 April 2023

Dear Ms Kilgannon,

Town and Country Planning Act 1990  
Appeal by Mr Rupert Farmer  
Site Address: Chatford House, Shrewsbury, SY3 OAY

I enclose for your information a copy of a letter received withdrawing the above appeal(s).

I confirm no further action will be taken.

Yours sincerely,

***Hazel Stanmore-Richards***  
Hazel Stanmore-Richards

<https://www.gov.uk/government/publications/planning-inspectorate-privacy-notice>

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - [www.planningportal.gov.uk/planning/appeals/online/search](http://www.planningportal.gov.uk/planning/appeals/online/search)

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## Appeal Decision

Site visit made on 16 January 2023

**by Tamsin Law BSc MSc MRTPI**

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

**Decision date: 12 April 2023**

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**Appeal Ref: APP/L3245/W/22/3300234**

**High Barn, Four Ashes Estate, Six Ashes, Bridgnorth, WV15 6EP**

- 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 Thompson against the decision of Shropshire Council.
  - The application Ref 21/04271/FUL, dated 25 August 2021, was refused by notice dated 1 December 2021.
  - The development proposed is the conversion of existing Dutch Barn to provide 1no. dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

1. The main issues are:
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - The effect on the openness of the Green Belt;
  - The effect on the character and appearance of the area;
  - The effect on biodiversity;
  - Whether or not the type and amount of enabling development is justified; and,
  - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

### Reasons

#### *Whether Inappropriate Development and Openness*

2. The appeal site comprises a detached agricultural barn that is open on all sides with a corrugated steel roof and unmade floor. Several five bar agricultural gates were located inside the building during my site visit. The agricultural barn is located in a field in an area that is largely agricultural in character and is accessed via a single lane track stemming from Batfield Lane. A farmstead and associated buildings adjoin the site to the south, with agricultural land surrounding the appeal building on all other sides.

3. Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (CS) states that new development in the Green Belt will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt.
4. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are openness and permanence. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. The Framework lists several exceptions which includes Paragraph 149 (g) the limited infilling or partial or complete redevelopment of previously developed land, whether redundant or in continuing use. Paragraph 150 lists forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include at 150 (d) the re-use of buildings, provided that the buildings are of permanent and substantial construction.
6. The appellant contends that the principle of converting agricultural buildings to residential use is established by Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order (England) (as amended) (GPDO). The appellant asserts that development which includes construction of new external walls, roofs, windows and doors is permitted and there is no explicit requirement for the existing structure to be fully relied upon since new external walls would be a permitted operation and could be used to reinforce the structural stability of the building.
7. The Council contends that the works required to facilitate the appeal scheme would, effectively, constitute a rebuild rather than a conversion. In this regard, my attention has been drawn to the Hibbitt<sup>1</sup> case, which considered the difference between conversion and rebuilding. That case, however, involved a conversion of a building under Class Q of the GPDO rather than full planning application. Nevertheless, it involved a proposal to convert a steel framed barn which was largely open on three sides, and the proposed building works included the construction of all four exterior walls. Similarly, the appeal proposal involves a building that is open on all sides. The proposed development would involve the construction of all new floors, walls, and the removal and replacement of the roof. The appeal building would therefore appear as a skeletal structure, as in the Hibbitt case.
8. No structural information has been provided with the submission. Alterations would include the insertion of floors, external walls and windows, replacement of the roof and single storey extension. All that would remain of the original structure would be the steel elements. Although it is recognised that to facilitate a conversion that some works would be required, the proposed development, would require significant internal and external works. Due to the substantial amount of work required to facilitate the proposed development I am not satisfied that the building is of a substantial construction. The proposal would therefore not meet the requirements of Paragraph 150 (d) of the Framework.

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<sup>1</sup> Hibbitt and Another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)



9. I note the appellant has referenced previously developed land and considers that the appeal building, being historically linked with the adjoining farm buildings and residential uses there, would comply with Paragraph 149 (g) of the Framework. However, the definition of previously developed land excludes agricultural uses. From my site visit the building appears as an agricultural building on agricultural land, indeed the appellant has sought permission for the change of use from agriculture and has referenced Class Q of the GPDO in their supporting submission. As such, I consider that the redundant or continued use of the land is agricultural and therefore the exemption on Paragraph 149 would not apply.
10. The proposal does not fall within the forms of development in Paragraphs 149 and 150 of the Framework. As such, the proposal would comprise inappropriate development in the Green Belt.

#### *Openness of the Green Belt*

11. A fundamental aim of Green Belt policy, as set out in Paragraph 137 of the Framework, is to keep land permanently open. The appeal building, being open on all sides, allows for views through it to the wider countryside. The conversion of the building to create a dwelling on the site would result in the blocking of views through the building. Additionally, the building would be extended, therefore introducing built development into an area where there is currently none. The footprint of the proposal, its bulk and the accompanying domestic accoutrement such as formal access track, parking and residential garden and, would inevitably lead to a loss of openness.
12. I note that a condition could be used to limit certain elements, such as domestic outbuildings, however the formal access and parking arrangement would remain. Additionally domestic paraphernalia such as washing lines, swing sets etc that would impact on the openness of the Green Belt.
13. Consequently, the development would lead to encroachment of development into the countryside and result in a moderate loss of Green Belt openness.

#### *Character and Appearance*

14. When travelling along the access road to the site the area has a rural character, with agricultural fields, mature trees and hedgerows adding to its character. The site is located on a single-track road and the proposed access track across the field would slope up towards the appeal building.
15. The existing building and associated agricultural field make a positive contribution to the area. The introduction of a formal curtilage, with associated domestic paraphernalia, and parking area along with a long track across an open agricultural field would erode the contribution that the building and field make to the open countryside. At the time of my site visit, I noted people leisurely walking along the quiet lane which leads to a number of footpaths. Such users are sensitive receptors to change.
16. For these reasons the development would have an adverse impact on the character and appearance of the area. The proposal would be contrary to CS Policies CS5 and CS17 and SAMDev Policies MD6 and MD12, which seek, amongst other things, to ensure that development maintains and enhances countryside vitality and character and contributes positively to local

distinctiveness. It would also fail to accord with the paragraph 130 of the Framework that seeks good design sympathetic to local character.

### *Biodiversity*

17. No ecological information has been submitted in support of the appeal. Standing advice by Natural England<sup>2</sup> explains that a survey should be produced where records suggest that great crested newts may be present and there is a suitable water body up to 500 metres from the development. The advice goes on to state that there may be a high to medium level of impact on great crested newts where development occurs within 50 – 250 metres from ponds. I have had regard to the Council's Planning Ecologist response to the proposal and their identification of a pond 60 metres to the southwest of the site. The appellant has not disagreed with this.
18. Given the proximity of a pond to the appeal site, the proposed development could impact on great crested newts, including their terrestrial habitats. I consider that the additional surveys including mitigation and compensation measures is necessary in order to establish the likely effects of the proposal on great crested newts.
19. Circular 06/2005<sup>3</sup> states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted. On the basis of the evidence before me, I do not consider that it would be appropriate to condition the undertaking of further survey work. A condition to require mitigation in the absence of further surveying would also not be appropriate as there can be no certainty that the mitigation would acceptably address any harm to great crested newts.
20. I am not satisfied that sufficient evidence has been provided in order to ascertain the effects of the proposed development on great crested newts or that survey work can be secured by a condition. Therefore, I conclude that the proposal fails to demonstrate that its effects on the biodiversity of the site and the surrounding area would be acceptable. The proposed development is contrary to CS Policy CS17 and SAMDev Policy MD12 which seek, amongst other things, to ensure that developments identify, protect, enhance and expand environmental assets. The proposal would also be contrary to Paragraph 180 of the Framework which seeks to ensure that proposals conserve and enhance biodiversity.

### *Enabling Development*

21. Paragraph 208 of the Framework indicates that local planning authorities should assess whether the benefits of a proposal for enabling development (which would otherwise conflict with planning policies but would secure the future conservation of a heritage asset) outweigh the disbenefits of departing from those policies.
22. Historic England guidance<sup>4</sup> (the HE guidance) defines enabling development as 'development that would not be in compliance with local and/or national planning policies, and not normally be given planning permission, except

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<sup>2</sup> Great crested newts: advice for making planning decisions (2022)

<sup>3</sup> Biodiversity and geological conservation: circular 06/2005

<sup>4</sup> Historic England 2020 GPA 4: Enabling Development and Heritage Assets (2020)

for the fact that it would secure the future conservation of a heritage asset'. It indicates that the case for enabling development rests on there being a 'conservation deficit' - where the cost of repair of a heritage asset exceeds its market value on completion of repair and conversion, allowing for all appropriate development costs.

23. The HE guidance lists a number of criteria to assess proposals for enabling development including the carrying out a condition survey, assessment of costs of repairs, assessment of market value of the heritage asset and a development appraisal that demonstrates the financial contribution the development will make.
24. The appellants submission details a number of listed buildings that fall under the same ownership as the appeal building. An assessment of their condition has been undertaken, although the detail of the assessment has not been provided, that ranks the Grade II\* listed building, among others within their ownership, as not being in use and in need of significant repair and refurbishment.
25. The submission has also provided a cost estimate for the repair and refurbishment of all listed buildings under the appellants ownership on the Four Ashes Estate. Detailed information, including the individual costing for each building has not been provided.
26. Whilst the appellant has sought to put forward the case for enabling development to support the appeal scheme, no detailed information regarding condition of the individual buildings, market value or development appraisal has been submitted. Additionally, no mechanism, such as a Section 106 agreement has been provided to secure the conservation of heritage assets. Due to the lack of detailed information it would also not be appropriate to condition any enabling works.
27. In light of the above, I am not convinced that the proposed development provides benefits that would outweigh the disbenefits nor am I confident that the scheme would secure the conservation of the heritage assets. Accordingly, the scale of enabling development proposed is not fully justified.

#### *Other Considerations*

28. The appellant has put forward a number of benefits. They state that proposed development, providing additional housing, would constitute sustainable development in terms of the objectives set out in the Framework and would provide enabling development for nearby heritage assets. These are disussed further in the overall balance below.
29. Both parties have drawn my attention to examples of similar developments within the area, however I do not have full details of these examples in front of me. I have also reviewed the extensive case law and appeal decisions submitted. However, the circumstance of each example appears to be different, such as being brick built barns or located outside the Green Belt, and does not outweigh the harm identified in this proposal.

## **Green Belt Balance and Conclusion**

30. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The development would be inappropriate development in the Green Belt. To this must be added further moderate harm arising from the loss of openness, and from being contrary to the purposes of including land within the Green Belt. Paragraph 148 of the Framework indicates that any harm to the Green Belt should be given substantial weight.
31. Very special circumstances will need to be demonstrated if developments are to proceed in the Green Belt. Whilst the appellant has outlined a number of benefits, detailed above, no information has been provided regarding the need to locate the development in this specific location. With regards to the supply of housing the Council can demonstrate a 5 year housing land supply. The scale of the scheme would accordingly limit its associated socio-economic benefits.
32. I have already discussed enabling development above and concluded that a lack of information has been submitted to ensure that the proposed development would secure the conservation of the heritage assets. I therefore attach little weight to this.
33. My analysis leads me to attach a moderate weight to the creation of a small number of jobs during the construction of the proposal. The substantial weight I have given to the Green Belt harm and the other harm I have identified is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. The proposal is therefore contrary to CS Policy CS5 which seeks to ensure that new development in the Green Belt will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt.
34. For the reasons set out above, the development would be inappropriate development in the Green Belt as defined by the Framework. Whilst I have not found harm in relation to the impact of the development on the living conditions of nearby residents the harm to the Green Belt provides a clear and overriding reason for refusing the development.
35. The proposal would therefore conflict with the development plan considered as a whole and there are no material considerations, including the Framework, that indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

*Tamsin Law*

INSPECTOR

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

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