



Committee and Date
Northern Planning Committee
26th October 2021

Item

Public

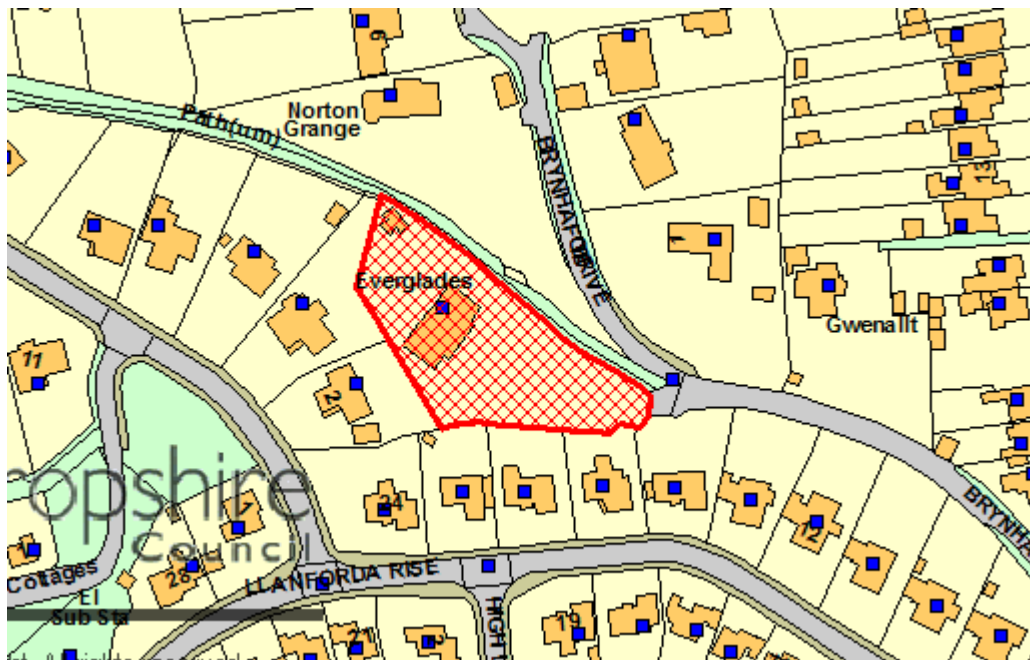
Development Management Report

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

Summary of Application

Application Number: 21/02444/FUL	Parish: Oswestry Town
Proposal: Change of use of existing residential dwelling/bed and breakfast (C3/B1 Use) to C2 Residential Care home with associated external works to extend parking provision	
Site Address: Everglades Brynhafod Lane Oswestry Shropshire SY11 1SH	
Applicant: Achieve Together	
Case Officer: Mark Perry	email : mark.perry@shropshire.gov.uk

Grid Ref: 328294 - 329685



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2021 For reference purposes only. No further copies may be made.

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

REPORT

1.0 THE PROPOSAL

- 1.1** This application is seeking full planning permission for the change of use of an existing dwelling, which is currently part operated as Bed and Breakfast accommodation, to a residential care home which falls within the C2 use class. No external works are proposed to the dwelling and the only works proposed are to the inside of the dwelling to reconfigure its layout and externally are to improve the parking provision to provide four additional spaces.
- 1.2** The dwelling will be internally adapted to achieve self-contained accommodation for 8no adults whose primary diagnosis is autism, Learning Disability and associated co-morbidities. There will be a maximum of 8no support/management staff supporting the residents, on a 24hr basis. There will be staff office/sleeper accommodation. The proposals enable supported independent living prior for residents prior to them moving elsewhere in the community once they have gained the necessary skills. The applicant advises in their submission that Shropshire Council and Achieve Together will work in partnership to ensure residents with learning disabilities who live in Oswestry have the opportunity to remain in their hometown instead of relocating to out of borough placements. And that one of the sources of referrals will be from Derwen College and other local community services.

2.0 SITE LOCATION/DESCRIPTION

- 2.1** Everglades is a moderately large two storey, detached dormer-style dwelling located just outside of Oswestry Town Centre, along Brynhafod Drive and set within a heavily residential area. The dwelling sits slightly set back within a large plot of around 0.6 acres that is well secluded from neighbouring properties through extensive boundary treatments consisting of a mature and well-established treeline and hedging. The properties along Brynhafod Drive are uncharacteristically large for such a central location, with their western boundary occupied with a denser spread of housing that are orientated with the rear elevations facing the Everglades' western side elevation

3.0 REASON FOR COMMITTEE

- 3.1** Within 21 days of notification the local member (Councillor Duncan Kerr) requested that this application be considered by the committee; raising material planning reasons.

4.0 Community Representations

4.1 - Consultee Comments

- 4.1.1** Oswestry Town Council-
The Council objects to the proposed change of use and to request that, if planning officers are minded to approve the application under delegated power that it is considered and determined by the elected members on the Planning

Committee. The Council objects for the following material planning reasons:

- Highway Safety for pedestrians accessing the bridleway via Brynhafod Lane. This is a popular and important route, the road is narrow, dark all year round and does not benefit from pavements. Not only will the increased traffic increase the safety risks but will also deter people from using the most sustainable form of transport - walking. The safety concerns are also relevant to the residents and employees at the Everglades and include disabled access.
- As the proposed development seeks additional car parking spaces this will clearly lead to an increase in traffic movement and traffic at irregular hours. Aside from the safety concerns, this will cause noise and environmental pollution which will have a detrimental impact on the residents in immediate area. There are concerns as to whether the number of spaces proposed is adequate, given the nature of the business and where this unmet traffic demand will go, will it mean traffic parking on the lane? or onto Hampton Road.
- The area is residential one and the proposal would bring a commercial use which will not only have a direct impact on the area but would also set a precedent for further growth and future commercialisation. The proposal is clearly out of keeping and character with the immediate area and would lead to an over intensification of use and overdevelopment of the site

4.1.2 **Highways-** As you are aware, I carried out a site inspection recently and have considered the attached Access Statement (AS), which has been commissioned on behalf of the local residents. A Technical Transport Note (TTN) has been produced by the applicant's agent.

The TTN describes the existing property as comprising a dwelling with a reception hall, 3 x reception rooms, kitchen, utility, cloakroom, shower room, sauna, gym, galleried landing, main bedroom with en-suite, 4 x further bedrooms, luxury bathroom. The property also has 2 x letting suites, 2 x bedroom cabins, a double garage and parking for 7 cars. On the face of it therefore, this is a large domestic property with potential B&B and/or Air B&B occupation. It is clear therefore that there is potential for greater car trips than would be expected from a more typical detached dwelling.

The current proposal seeks COU to provide a supported living care home facility for young adults for up to 8 persons. There will be supporting staff on a 24 hour basis with an estimated 8 staff on duty during the day and 3 staff present during the evening and through to the morning shift. 11 car parking spaces are to be provided on site. Such developments are difficult to predict the likely car/vehicle trip generation but I consider it is highly likely that the current proposal will increase traffic movements and this is challenged within the AS.

The access road to the site via Brynhafod Lane is narrow in places and within the AS (objectors) the specific carriageway widths have been identified and how this relates to the advice set out in Manual for Streets. I would not dispute these figures but in practical terms the majority of traffic movements will be cars and not larger vehicles and there are widths along the route where vehicles can pass one another. It is acknowledged that there would be occasions where vehicles have to give way and particularly in respect of larger vehicles, as is no doubt the

situation now. The fundamental test however in objecting on highway grounds is that the cumulative impacts of the development would be severe. That is a high threshold to breach based upon the likely traffic generation increase on the lane and in this regard and on balance I consider that a highway objection would be difficult to defend.

Comment is made in the AS regarding parking spaces 1 and 2 and I would agree the access road should be widened as the reality is that vehicles would have to manoeuvre over the grassed area, but the manoeuvre itself could be undertaken although not desirable.

In the event that the planning authority is minded to granted consent I consider that a Condition should be imposed requiring details of the car parking layout to provide 11 spaces being submitted to and approved in writing by the Local Planning Authority; the car parking shall be laid out fully in accordance with the approved details. Reason: To provide an adequate level of on site car parking to serve the development.

- 4.1.3 **Adult Social Care (Service Manager)-** this is a supported living scheme so I am in full support of this.
- 4.1.4 **Affordable Housing-** As the proposal is for C2 use no affordable housing contribution will be payable.
- 4.1.5 **Tree Officer-** there are a number of trees on this site and an Arboricultural Impact Assessment has been submitted with the application.

The AIA has identified 23 individual trees and 3 groups of trees which have been assessed in accordance with BS 5837 (2012) and includes a categorisation of the trees based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and consider that they are unduly conservative, particularly when the trees are considered as a whole, these are prominent specimens that have a visual and historic importance and help to define the landscape of the area. I also note that the executive summary states that the site is within the Rainsford Conservation Area, it does not, although a number of the trees are protected by a Tree Preservation Order, which the report acknowledges.

As noted above, the trees form an important group and are an attractive element of the local landscape and character of the area, and their retention is highly desirable.

I have examined the Arboricultural Impact Assessment and the site layout plans provide and agree that the proposals can be implemented with minimum impact to the trees and without any tree loss. There is some level of encroachment into the Root Protection Zones of 3 trees, T3, T19 & T22 to provide car parking spaces and the AIA has specified that a 'no dig' CCS construction should be used and it is acknowledged that these systems can be an acceptable means of forming hard surfaces over tree roots although they are not always appropriate.

In this case the extend of the hard surface in the RPAs is minimal and there are no arboricultural reasons why the system shouldn't be used, notwithstanding that there is already hard surface within the RPA of T19 & T22 and a circular RPA may not be an accurate representation of root distribution, I take the view that both trees are well established and in good overall physiological condition and would withstand the proposed no dig hard standing, however confirmation that this system is acceptable from an engineering perspective is required along with a site specific design and installation method statement.

The site is well provided with trees and we would not be seeking any additional planting in association with this development.

No objection is raised to the proposal subject to an adequate and acceptable no dig design for the carparking spaces and a full tree protection plan being provided.

The following condition is recommended:

a) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until full design details and a method statement providing details of tree protection measures to be implemented during the installation of the no dig drive has been submitted and approved by the Local Planning Authority. This method statement must make provision for supervision of these works by the applicant's arboriculturist or other competent person, as agreed in writing by the Local Planning Authority.

c) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

4.1.6 **Drainage-** Informative Notes:

1. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. It is available on the council's website at: <https://www.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-for-developers.pdf>

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

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

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

3. On the Surface Water Flood Map, the site is at risk of surface water flooding. The applicant should ensure that the finished floor level is set above any known flood level or at least 300mm above the ground level.

4.2 - Public Comments

4.2.1 50 representations of objection and 60 in support of the application have been received. Commenting on the following issues:

Objection

Breach on existing property/ breach of conditions

Proposed use will not fit in

Proposal will change scene of neighbourhood.

Increased traffic generation

No footpaths nearby

Blind spots on road

No passing places

Impact on those using bridleway

Brynhafod Lane is inappropriate

Increased traffic from delivery lorries, worker and visitors

Inadequate visibility on road because of inadequate lighting and tall trees

Family dwellings nearby

Over development

Intensification of the site

Risk of anti-social behaviour

Disturbance from shift workers

Icy road during winter

Road well used by walkers
 Other more suitable dwelling available locally
 Inappropriate used
 Could lead to further C2 falling in use class C2A (secure residential institutions)
 Development will look institutional
 Already regular near misses between traffic
 Danger to pedestrians
 Inappropriate position and facilities
 Increased noise and disturbance
 Property is in a residential area
 Proposal is for a commercial use
 Possibility of further changes to the use.
 Impact on existing residents
 Further intensification of the site
 Insufficient parking proposed
 Impact on quietness of area
 Poorly lit road, no pavement
 Fire engine access
 Drainage of the site
 Risk of injury to public
 School children walk on the road
 Impacts on predominantly elderly residents.
 Purpose built facility in an open space would be far more appropriate
 Loss of garden to car park
 Increased risk of flooding
 Overspill parking on roads
 Traffic congestion
 Lots of empty property in the town with better lighting and footpaths
 Increased pollution
 Loss of green space
 Increased activity on the site
 Site is already over developed
 Light pollution
 Poor management of institution
 Impact on trees

Support

Skilled and experienced company
 Community involvement
 Will enable residents to stay in their own community
 No such facility currently in area
 Need locally
 Lack of opportunities for people with autism to be included in society
 Needed in Oswestry
 Ability for vulnerable people to live in their own town
 Property, garden and location is ideal
 Residents have the right to live as part of community
 Residents would cause no more problems for other members of the public than
 Would be found in any other community.
 Support people in the community
 Close to town centre

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Highway safety
Impact on residential and local amenities
Drainage
Trees

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the adopted development plan 'unless material considerations indicate otherwise'. The local development framework of the county of Shropshire principally consists at this time of the Core Strategy (2011) and Site Allocations and Management of Development (SAMDev) Plan (2015), and a range of supplementary planning documents. The National Planning Policy Framework (NPPF) has been published by national government and represents guidance for local planning authorities. It is a material consideration to be given weight in the determination of planning applications.
- 6.1.2 Section 5 of the National Planning Policy Framework 'Delivering sufficient supply of homes' highlights the Government's objective of significantly boosting the supply of homes and that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
- 6.2.3 Policy CS6 of the Shropshire Core Strategy: 'Sustainable Design and Development Principles' requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard both residential and local amenity, ensuring that sustainable design and construction principles have been incorporated.
- 6.2.4 Policy CS11 aims to meet the diverse housing needs of Shropshire residents, both now and into the future and to create mixed balanced and inclusive communities. The policy goes on to reiterate its support for the provision of housing for vulnerable people and specialist housing provision, including nursing homes, residential and extra care facilities. Importantly these must be in appropriate locations and where there is an identified need.
- 6.2.5 Further to Policy CS6, SAMDev MD2: 'Sustainable Design' includes a requirement to contribute to and respect locally distinctive or valued character and existing amenity value whilst responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses. Policy MD3 emphasises the need for different types of housing to be identified and provided which meets the needs of different groups within the community, including people with disabilities and older people.

- 6.2.6 The Councils' adopted Supplementary Planning Document, 'Type and Affordability of Housing' sets how the Council will address specialist and supported housing needs. The SPD sets out how provision has to be made for the increasing number of elderly people in Shropshire and for other vulnerable groups who need either specialist accommodation or a setting where appropriate support can be provided. It goes on to state that this may be through the provision of new market housing (eg. for older people), adaptation to existing housing or through some form of specialist provision.
- 6.2.7 Everglades is a modestly scaled dwelling that sits within a large plot, particularly large when in comparison to the neighbouring residential dwellings and for such a heavily residential area – within the development boundary of Oswestry as shown at S14 Inset 1 of the SAMDev Settlement Policies.
- 6.3 History of the Site
- 6.3.1 The existing dwelling has been operating as bed and breakfast accommodation for a number of years. There have been no historic enforcement issues on site querying its operation as a bed and breakfast or whether a material change of use has occurred. The use of the site as a bed and breakfast was recognised in a planning application submitted in 2014 (14/04112/FUL) where an application was submitted for the use of an existing summer house to provide additional bed and breakfast accommodation.
- 6.3.2 There have been other applications to increase the size of the dwelling under references 10/02382/FUL and 17/00975/FUL which has resulting in the dwelling that is on site today. Despite the increase in size the primary use remains as a single dwelling.
- 6.3.3 Under planning legislation homeowners are able to operate a B&B without requiring planning permission if there is no material change of use occurring based on the scale of commercial activity taking place.
- 6.3.4 Since this current planning application has been submitted a number of enforcement complaints have been received by the Council with allegations that previous development on the site has not been carried out in accordance with the approved plans and that there has been a material change in use from a dwelling to a predominately bed and breakfast use.
- 6.3.5 The alleged use of the building and any potential breaches of planning control have not been investigated whilst this current application is under consideration. Any alleged material change in use of the existing building is not relevant to this current application as an entirely different use is now being proposed.
- 6.3.6 Objectors feel that previous extensions to the dwelling has made it more attractive to the prospective purchaser of the site, and applicant of this current planning application. Whilst this is noted, this application must be considered on its individual merits including consideration of any unlawful built development that may have taken place. Any approval granted would then regularise any previous planning breaches in terms of the built development that has been shown on the approved plans.

6.4 Scale and Design

- 6.4.1 The existing dwelling currently contains 6 bedrooms on the first floor, a main bathroom and two of the bedrooms benefit from en-suite bathrooms. On the ground floor there is a further bedroom with en-suite, lounge, kitchen office and a sauna and gym area.
- 6.4.2 In order to create the care home proposed the dwelling would be reconfigured internally so that 4 self-contained, one bedroom units would be created on the first floor. On the ground floor a further 4 units would be created. Each would have an en-suite bathroom and small kitchenette area. In addition, there would be a lounge area for residents and a staff room on the first floor. Externally there would be no changes made to the existing building.
- 6.4.3 It is acknowledged by Officers that an external staircase has previously been added to the dwelling without the benefit of planning permission. This staircase will remain as part of the proposed use and therefore it forms part of the considerations in this application. It is considered that the staircase does not detrimentally impact upon the appearance of the dwelling or would its use impact upon the privacy of neighbours, therefore Officers raise no objection to its retention in terms of its scale and design.
- 6.4.4 The existing dwelling sits in an uncharacteristically large plot, measuring some 0.6 acres with the dwelling occupying a modest footprint in comparison. The site is well enclosed by existing vegetation. The substantial plot is part of its appeal, the peace and lack of activity is likely to be a valuable attribute for providing accommodation for vulnerable people.
- 6.4.5 Officers do not agree with the Town Council that the proposal would result in the overdevelopment of the site. As noted above, other than the additional 4 parking spaces no extensions to the building are being proposed. The dwelling will continue to be surrounded by its extensive garden and vegetation. The application site is already developed to a significantly lower density than other built development in the immediate area.
- 6.4.6 It is recognised that the dwelling has had a number of extensions previously. The planning applications for these were considered on their individual merits at that time. It is normal for the personal circumstances to change, families grow etc and extending dwellings is a way to accommodate this. Such extensions should be approved if the proposals comply with the planning policies' in place at such time. Undoubtedly the size of the dwelling as it is now has made it more attractive to the applicant who is proposing its change to a small care home. The fact that there have been previous extensions to provide additional accommodation, does not prejudice the current application for the change of use which must be considered on its individual merits, against current policy and on the basis of the site and its surroundings as they currently are.

6.5 Highway Safety

- 6.5.1 The proposed use will utilise the existing driveway and highway which is used to access the existing dwelling/ B&B. The site is located to the west of the town centre, an area that is dominated by large amounts of residential development

arranged around typical estate roads and residential cul-de-sacs. Brynhafod Lane/ Hampton Road is a wide estate road facilitating access to a large number of properties. Leading from Brynhafod Road is Brynhafod Lane which provides access to 8 dwellings; include the dwelling the subject of this application (Everglades). Brynhafod Lane is a narrow lane, without the benefit of pavements and it is enclosed by a stone wall on one side and vegetation on the other. It does however benefit from streetlighting up to the driveway of Everglades. To access the entrance to Everglades vehicles, pedestrians and cyclists would have to walk for around 130 metres along Brynhafod Lane.

- 6.5.2 As noted in the Highway Officers comments above, both the applicant and objectors have provided assessments of the site and the impact the proposed development would have in terms of highway safety and traffic movements. Both reports have been fully considered by Officers.
- 6.5.3 It is recognised by Officers that the proposed use will increase the movement of vehicles to and from the site. It must be recognised that the existing dwelling has been operating as a Bed and Breakfast for a number of years which in itself generates a number of vehicle movements, likely by car, as guests arrive and leave during the day and evening.
- 6.5.4 The proposed use would require 8 members of staff on site during the day shift with 3 members present during the nights. Staff shifts would be between 0730 and 1930 hours and 1930 and 0730 hours. In the submitted Technical Transport Note it advises that the weekday vehicle trips of the existing premises is 18 two-way movements. The proposed use would increase this to 22 two-way movements. This is based on the worst-case scenario as some members of staff may use non-car modes of travel.
- 6.4.4 It is recognised that Brynhafod Lane is narrow and for much of its length it does not allow two vehicles to pass one another, ultimately meaning that vehicles may, on occasions, have to wait for the opposing vehicle to pass. This is a situation that already exists for current users of the lane. However, taking into account the limited number of dwellings that the lane serves the frequency of vehicles meeting is likely to be low. As such any vehicles having to wait or on occasions reverse to a wider section of road would be infrequent and in Officers opinion, not to the extent where it would detrimentally impact upon the free flow of traffic.
- 6.4.5 It is considered that the small likely increase of vehicle movements per would not be likely to have an impact on the local highway network.
- 6.4.6 The existing dwelling has parking provision for 7 dwellings to the front/ side of the existing dwelling. The application does propose to increase the amount of parking to provide 11 parking spaces. It is considered that taking into account the scale of the proposed use and the number of staff and any visitors, that the proposed parking provision is considered to be acceptable.
- 6.4.7 The NPPF requires 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. This is a high threshold to breach. Based upon the likely traffic generation on the lane, due

to the use proposed, the Councils Highways Officer considers that a highway objection would be difficult to defend.

6.3 Impact on residential and local amenities

- 6.3.1 CS6 of the Shropshire Core Strategy, Section 7 of the National Planning Policy Framework and Policy MD2 of the SAMDev indicate that the development will not adversely impact on the amenity rightfully expected to be enjoyed by occupiers of neighbouring properties.
- 6.3.2 Objections have been raised by both the Town Council and neighbouring residents that the proposal will have significantly adverse impacts upon both local and residential amenities. Impacts arising from loss of residential amenities because of the proposed change of use to a commercial one with concerns about its future growth. They also raise concerns about the proposal being out of keeping and character with the immediate area and would lead to an over intensification of use and overdevelopment of the site.
- 6.3.3 As noted from the representations received there are clearly concerns about the impact that the proposed use will impact upon the amenities of neighbours. Concerns are raised about the increase in vehicles entering and leaving the site and also disturbance from those that will be living on the site.
- 6.3.4 In the case of noise, disturbance or behaviour of those that would reside in the property, it is expected to regard these issues as a matter for the managers of the care home. It generally follows a well managed facility, should not cause significant noise and disturbance and consequent detriment to the amenities of nearby residents. The way in which this type of care home is managed would be a matter for The Care Quality Commission, the regulating body. Accordingly, it is considered that these matters cannot be given sufficient weight to justify the refusal of planning permission.
- 6.3.5 The proposal is only for up to 8 residents to live on the site with their 24 hours carers working on a shift pattern. The submitted Transport Assessment advises that there would be 8 members of staff on site during the day and 3 during the night and that this would generate 22 two-way movements as a worse case scenario not taking into account staff that may use alternative non-car way to get to the site of car-share. During the week there would be trips associated with deliveries and trips for the residents.
- 6.3.6 It must be recognised that the continued use of the site as bed and breakfast accommodation would already generate a number of vehicle movements as guests arrive and leave the site. At present the current owners make 4 of the rooms available for paying guests. The submitted Traffic Assessment indicates that the existing use could be expected to generate 18 two-way vehicle trips each day Deliveries etc to the site would likely be experienced for both the existing and proposed use of the site.
- 6.3.7 It is considered that the small increase of around 4 two-way trips during a 24 hour period which would also include vehicles manoeuvring within the site to park, doors being shut etc would not create such a level or noise of nuisance when it would impact upon the amenities of neighbours especially when taking into

consideration that the distance of separation between the rear elevations of the nearest dwelling and the edge of the driveway is around 17m and separated by trees that are the subject to Tree Preservations Orders. The proposed parking area would be a minimum of 22 metres away from neighbours dwellings.

6.4 Impact on Trees

6.4.1 There are a number of trees on this site and an Arboricultural Impact Assessment has been submitted with the application. The AIA has identified 23 individual trees and 3 groups of trees which have been assessed in accordance with BS 5837 (2012). The Council's Tree Officer has considered the assessment and reviewed the categories allocated to the trees. It is considered that the categorisation has been conservative, particularly when the trees are considered as a whole. They are prominent specimens that have a visual and historic importance and help to define the landscape of the area and a number of the trees are protected by a Tree Preservation Order.

6.4.2 The Arboricultural Impact Assessment set out how the additional parking can be implemented. It is considered by the Tree Officer that this can be achieved with minimum impact to the trees and without any tree loss subject to the use of no-dig techniques. These details would be secured by a planning condition.

6.5 Impact on Public Right of Way

6.5.1 A public bridleway runs along the northern edge of the application site, separating the site from the neighbours to the north. The bridleway heads in a westerly direction, though the surrounding housing estate and out into the countryside.

6.5.2 The proposed use of the site would not have any impact upon the bridleway and the members of the public will continue to be able use it without obstruction.

6.6 Drainage

6.6.1 The site will continue to be drained in the same way that it is currently, with surface water to soakaway and foul water to the existing sewer. The Council's Drainage officer has reviewed the application and has raised no objection to the scheme.

7.0 CONCLUSION

7.1 The proposed change of use of an existing dwelling, which currently operated as Bed and Breakfast accommodation is considered to be suitable for use as a C2 care home. The proposal would help meet National and local planning policies by supporting the delivery of specialist supported housing. Taking into account the scale of the building the subject of the application, the size of its curtilage and its context it is considered to be an appropriate site for the purpose proposed. The small scale of the enterprise would not give rise to a level of activity or vehicle movements whereby there would be a detrimental impact upon the amenities of surrounding occupiers

7.2 The proposal is compliant with all relevant policies contained within the Shropshire Core Strategy, the SAMDev Plan and the National Planning Policy Framework; as such it is recommended that permission be GRANTED subject to conditions.

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:

CS3 - The Market Towns and Other Key Centres
CS6 - Sustainable Design and Development Principles
CS11 - Type and Affordability of housing
MD2 - Sustainable Design
MD3 - Managing Housing Development

RELEVANT PLANNING HISTORY:

OS/08/15487/OUT Demolition of existing dormer bungalow and erection of 5 new dwellings with private access road. WDN 14th May 2008
PREAPP/09/01031 Possible demolition of house and replace with a purpose built sustainable efficient house REC
10/02382/FUL Erection of extension to front elevation to include insertion of dormer windows; elevational alterations; erection of detached double garage with first floor storage GRANT 3rd August 2010
11/01680/TPO Various works to trees protected by the Borough of Oswestry (High Lea, Oswestry) TPO 1968 GRANT 11th May 2011
14/04112/FUL Change of use and extension to existing residential summerhouse to provide additional bed and breakfast accommodation GRANT 27th November 2014
15/03972/TPO Works to trees protected by Shropshire Council Tree Preservation Order (Land at and around Brynhafod Lane, Brynhafod Drive, Oswestry) TPO 2012 (see Tree Report) GRANT 5th November 2015
17/00975/FUL Erection of a two-storey extension to form ancillary accommodation GRANT 19th May 2017
21/02444/FUL Change of use of existing residential dwelling/bed and breakfast (C3/B1 Use) to C2 Residential Care home with associated external works to extend parking provision PCO

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
--

Cabinet Member (Portfolio Holder) Councillor Ed Potter

Local Member

Cllr Duncan Kerr

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. a) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until full design details and a method statement providing details of tree protection measures to be implemented during the installation of the no dig drive has been submitted and approved by the Local Planning Authority. This method statement must make provision for supervision of these works by the applicant's arboriculturist or other competent person, as agreed in writing by the Local Planning Authority.

c) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be

informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

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

4. Details of a car parking layout to provide 11 spaces with permeable surfacing shall be submitted to and approved in writing by the Local Planning Authority; the car parking shall be laid out fully in accordance with the approved details and completed prior to the use hereby approved commencing.

Reason: To provide an adequate level of on site car parking to serve the development.

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

5. The C2 use hereby approved shall be for no more than 8 residents/ patients.

Reason: To ensure an acceptable scale of the use.

-