



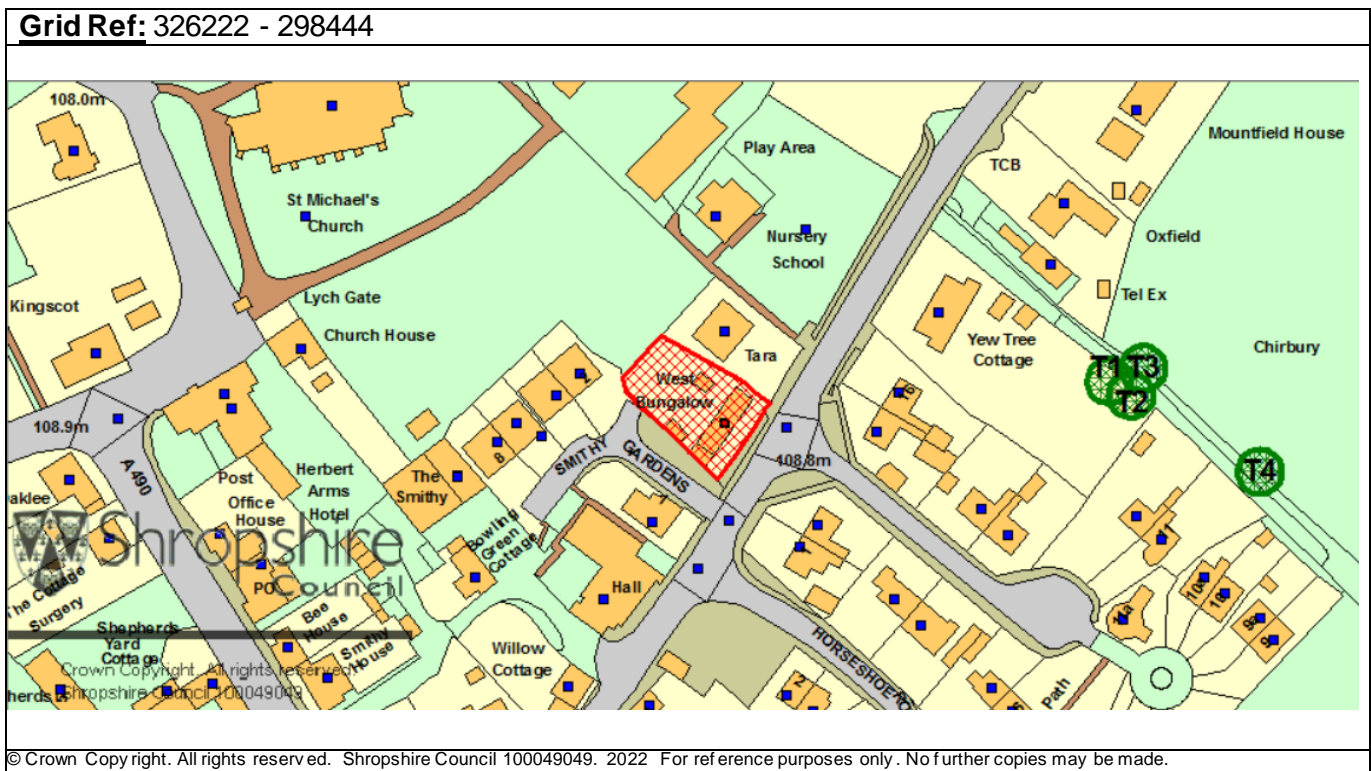
Committee and date
Southern Planning Committee
11th April 2023

Development Management Report

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

Summary of Application

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



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 2nd 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 15th 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.

6.8.2 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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