



### Committee and date

South Planning Committee

4 April 2017

## Development Management Report

Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 16/04135/FUL	<b><u>Parish:</u></b>	Highley
<b><u>Proposal:</u></b> Change of use of agricultural buildings to 2 dwellings and installation of septic tank drainage (Part Retrospective)		
<b><u>Site Address:</u></b> Agricultural Building NW Of Coombys Farm Severn Side Highley Shropshire		
<b><u>Applicant:</u></b> Mr C Herbert		
<b><u>Case Officer:</u></b> Elizabeth Attwood	<b><u>email:</u></b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>	

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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This planning application change of use of agricultural buildings to 2 dwellings and installation of septic tank drainage (Part Retrospective).
- 1.2 The background to this application is that in 2015 application 15/01903/PMBPA for prior approval as Permitted Development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 was made under recently introduced permitted development rights for the change of use from agricultural to residential use. It was determined from the information supplied that Prior Approval was not required subject to conditions on 28<sup>th</sup> Jul 2015.
- 1.3 The proposal was to convert a range of buildings previously used for agriculture into two dwelling houses. The external dimensions of the buildings would not extend beyond the external dimensions of the existing buildings and the applicant confirmed that the works required to implement the conversion would involve the following:
  - Renovation of roof coverings where necessary
  - Installation of doors and windows
  - Installation of mains water and electricity services (both are already on site)
  - Installation of septic tank.
- 1.4 The cumulative floor space of the existing buildings is 407.72 sq.m. and there are no other dwellings which have been developed previously under Class MB.
- 1.5 The proposed residential curtilage space originally submitted amounted to a total of 316 sq.m. which would exceed the requirements in the regulations that such areas should be no larger than the land area occupied by the agricultural building (i.e. approximately 292 sq.m.) Accordingly amended plans were submitted to reduce the curtilage to 292 sq.m. The site did not form part of a SSSI neither was it listed or curtilage listed.
- 1.6 A visual inspection by the case officer in 2015 confirmed that the buildings were of substantial construction and in good structural condition. Issues in respect of transport and highways, noise impacts, contamination, flood risk, ecology and design and external appearance were considered and were deemed to be acceptable and hence Prior approval in respect of these matters was not required.
- 1.7 Therefore, having assessed the application it was found to meet all of the above criteria and therefore was deemed to be 'Permitted Development'.

- 1.8 This application has been submitted because it is considered that some of the works which have been undertaken are outside the limits of what is permitted under the Prior Notification scheme.
- 1.9 The buildings are grouped around a small courtyard and comprise of 'U' shaped range that would provide residential accommodation. The western side of the courtyard is enclosed by a detached building that would provide garaging/storage and the entrance into this shared space. Each dwelling unit would have an 'L' shaped plan. The larger southern unit would be part single and part two storey. It would provide a utility room, kitchen, sitting room, hallway, office and lounge (Or fourth bedroom) on the ground floor, with three bedrooms (one ensuite) and bathroom at first floor level. The ground floor of the smaller northern unit would contain a dining/sitting room and kitchen, and three bedrooms (one ensuite) and a shower room on the first floor. The roof finishes are a mix of clay plain tiles and natural slate, with the walls being predominantly stone with some areas of brick work and horizontal boarding. Hipped roofs are a feature of three gable ends in the building group. Full external joinery details have been submitted with the application. The residential curtilage would comprise of areas to the south, east and north of the buildings enclosed by a combination of stock proof post and rail fencing and hedging. A field access track runs along the northern side of building group, separating them from an existing building which remains in farming use. The dwellings would share a septic tank and drainage field in agricultural land immediately to the east of the residential curtilage, with surface water disposed of to soakaways.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1.1 The site is barns at The Heath, which is a part of Coombys Farm, Severnside, Highley. The Heath is a separated site on Coombys Farm, divided by the Severn Valley Railway line and about 3/4 mile. The Heath is just south of the Severn Valley Country Park and is adjacent to the Severn Valley Railway.
- 2.1.2 The site is accessed via a metalled farm track from New Road, the B4555 which splits and leads to both properties. There is a right of way running adjacent to the site, Footpath 0127/34/1.
- 2.1.3 The range of buildings subject of this application are located within a complex of agricultural buildings access to which is via a long drive joining the public highway to the south of Highley in the open countryside.
- 2.1.4 The active farm comprising 105 acres is a primarily a sheep farming enterprise (165 sheep live outside for all of the time with the exception of lambing) and the active building consists of three sections. The section nearest to the application site is a "pole barn" with steel sheet cladding approximately 30m x 10m. It is separated from the application buildings by a strip of land some 8 metres wide. This section of the farm building is used solely for the storage of feed corn, hay and bedding straw.
- 2.1.5 The second section is furthest from the application site and is about 30m x 10m. It

has access through the east and west gables. It is only used for roughly 4 weeks each year when lambing is in progress. This section is separated from the application buildings by the feed/straw storage building - plus the 8m wide strip of land, (i.e. the nearest part of this lambing shed is some 18 metres from the application building).

- 2.1.6 The third section of the farm building consists of a smaller lean-to addition (some 10m x 9m), with a steel sheeted roof. This building is also used for lambing for about four weeks a year. The area of yard to the north of the farm building is used for the storage of (home produced) haylage.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Chair and Vice Chair of the South Planning Committee, in consultation with the Principal Officer, consider that in view of the public representation received and the planning history of the site it would be appropriate for the Committee to appraise the site context of the development.

### 4.0 Community Representations

- Consultee Comments

- 4.1 Highley Parish Council – no objections
- 4.2 SC Highways – no objections and suggest informatives in respect of the PROW and works abutting the public highway. *The site is a significant distance from the public highway and therefore the latter informative is not relevant.*
- 4.3 SC Drainage – no objections and suggests an informative in respect of a sustainable drainage scheme
- 4.4 SC Affordable Housing - Whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre-dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, national policy prevails and no affordable housing contribution would be required in this instance.
- 4.5 SC Ecology - Conditions and informatives recommended.

A preliminary bat survey was carried out on this site in March 2015 by Chelmarsh.

#### Bats

The buildings were found to be largely unsuitable to support roosting bats and no evidence of bat presence was observed.

Care should be taken during works to the roofs and should a bat be found at any point, works must cease and a suitably qualified ecologist contacted for advice.

Bat boxes (or integrated bat bricks) should be erected on the converted buildings to

enhance the roosting opportunities available for bats.

New lighting on the site should be sensitive to bats and follow the Bat Conservation Trust's guidance.

### Birds

Three swallows nest and one blackbird nest were observed in building C and 'a small bird, presumably a tit species had either been nesting or roosting' in a gap in the wooden fascia of Barn B.

Works to the buildings should take place between October and February to avoid harming nesting birds. If this is not possible then a pre-commencement check for active nests should be carried out and if any active nests are present, works cannot commence until the young birds have fledged.

Replacement nesting opportunities should be provided in the converted building by erecting bird boxes.

### Other species

No evidence of any other protected species was observed on, or in close proximity to, the site and no additional impacts are anticipated.

Site materials should be stored off the ground to prevent them being used as refuges by wildlife.

Trenches should be covered overnight or contain a ramp so that any animal that becomes trapped has a means of escape.

### Conditions and informatives

The following conditions and informatives are recommended for inclusion on the decision notice:

#### **Bat box condition**

Prior to first occupation / use of the building, details for the provision of bat boxes shall be submitted to and approved in writing by the Local Planning Authority. A minimum of 2 external bat boxes or integrated bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site. The boxes shall be sited in accordance with the latest guidance (currently [http://www.bats.org.uk/pages/bat\\_boxes.html#Putting up your box](http://www.bats.org.uk/pages/bat_boxes.html#Putting up your box)) and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats, in accordance with MD12, CS17 and section 118 of the NPPF.

#### **Bird box condition**

Prior to first occupation / use of the building, details for the provision of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The

following artificial nests shall be provided:

1. A minimum of 2 swallow cups.
2. A minimum of 1 open-fronted nest box suitable for blackbirds.
3. A minimum of 1 box suitable for small birds (32mm hole, standard design).

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 118 of the NPPF.

### **Lighting plan**

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 development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's *Bats and Lighting in the U.K.* guidance.

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

### **Informative: Ecology – Bats**

All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

During all building renovation, demolition and extension works there is a very small risk of encountering bats which can occasionally be found roosting in unexpected locations. Contractors should be aware of the small residual risk of encountering bats and should be vigilant when working in roof spaces and removing roof tiles etc.

If a bat should be discovered on site then development works must halt and a licensed ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

### **Informative: Ecology – Nesting wild birds**

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one that is being built, containing 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, scrub removal and/or conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from March to September inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an 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.

If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.

### **General site informative for wildlife protection**

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

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.

## **4.6 - Public Comments**

A site notice has publicised the application. One representation has been received; the issues raised are;

- ☐ the single storey and two storey barns were merely ruins in 2004,
- ☐ Both barns have been demolished to ground level and reconstructed
- ☐ With new window openings to suit future adaptation to living accommodation.
- ☐ the stonework has been recently laid, the bonding is "random rubble" and no attempt has been made to dress the stonework as was customary at the time of the original barn construction.
- ☐ The application makes it clear these barns are surplus to agricultural needs so why has the applicant recently rebuilt barns that he has no agriculture use.
- ☐ The hipped roof is not appropriate, the large patio windows are out of character in barns.
- ☐ The cart shed would have had open arches only to the courtyard side Only and the two-storey barn would have only east and west doors to thresh the corn.
- ☐ The three large picture windows to the SW are all new openings and are out of character with barns.

- ☐ The roof to the two-storey barn has been raised an additional metre more than show on plan.
- ☐ The Conservation survey was carried out when bats were hibernating the bat boxes are too small.
- ☐ Other matters in respect of holiday lets, planning history on the site and motocross were raised but are not material planning considerations in determining this application.

Photographs and photomontages have also been submitted purporting to show the building in various states of repair.

## 5.0 THE MAIN ISSUES

Principle of development  
Siting, scale and design of structure  
Visual impact and landscaping  
Residential Amenity  
Highway Safety  
Ecology  
Affordable Housing

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 This application has been submitted because it is considered that some of the works which have been undertaken are outside the limits of what is permitted under the Prior Notification scheme.

6.1.2 These include;

- The previously approved flat roof to the western barn being amended to a slate hipped roof with clay ridge and hip tiles to match the south elevation;
- An increase in length of the four light wide window in the gable end of elevation B and the omission of the waney edge timber boarding;
- The three light wide 1st floor window on elevation A being amended to a two light wide;
- The four light wide French doors on elevation B now being a three light wide (in the same opening);
- Approved 4 x two light wide window on the north D elevation being reduced to 3 windows;
- The approved mono pitched roof to the garage building now being a pitched roof;
- Approved cement rendered brickwork now faced with reclaimed brick;
- Approved 2x ground floor windows on south elevation E reduced to 1 window.

6.1.3 Local Development Framework Core Strategy Policy CS5 – Countryside and Green Belt, permits 100% open market conversions in the rural area where the buildings constitute a “heritage asset” and where respect for the heritage asset is demonstrated and high standards of sustainability are achieved. This is reiterated



in the SAMDev Plan policy MD7a which confirms that normally only minimal alteration or rebuilding is acceptable to achieve the development and that the proposal would respect the significance of the heritage asset, its setting and the local landscape character.

- 6.1.4 Comments received from an objector are acknowledged however as noted previously the case officer reported that the buildings were in good condition when she visited the site in June 2015. The officer report stated;

*“The buildings subject of this application consist of the following:*

*Barn A is a stone built barn with a new tiled roof.*

*Barn B is also stone built but with a corrugated tin roof and a wooden fascia on its sides.*

*Barn C is a small stone and brick structure with a corrugated tin roof.*

*They have masonry walls of local stone and/or red brick, waney edged timber boarding (to part of the first floor elevations) on timber framing and cement render finish to the brick walls of the 1960's addition. The main roof over the two storey element has a pitch roof with modern profiled steel sheeting on timber trusses. The single storey wing has a steep pitched roof covered in plain clay tiles and the remaining roofs are a shallow pitched h metal sheeting on a waterproof underlay”.*

- 6.1.5 The objector has also submitted a photograph of the barns in a poor state of repair stating to have taken it in 2007 and aerial photographs from Circa 2004.

- 6.1.6 Officer research on [www.getmapping.com](http://www.getmapping.com) has revealed that in;

- ❑ 1999 there was a large barn with a green roof, and the L shaped extension had a grey roof, the small barn had lost its roof, but it was difficult to confirm the state of the detached barn;
- ❑ 2004 was a similar situation to 1999;
- ❑ 2010 some reroofing had occurred in respect of the large barn, the small barn had no roof, the detached barn was roofed;
- ❑ 2012 was a similar situation to 2010;
- ❑ 2013 was a similar situation to 2010 and 2012;
- ❑ 2015 the large barn, the small barn and the detached barn were all roofed.

- 6.1.7 The applicant has confirmed that; the building suffered storm damage in the 1980's and it was decided to repair and re roof the buildings over time when funds allowed using original and reclaimed materials rather than replace with modern steel portal frame in order to retain the original and traditional character.

- 6.1.8 There photographs taken on 15.03.15 illustrating the Ecology Survey submitted with application 15/01903/PMBPA show that;
- Barn A is in good order and has a new tiled roof.

- Barn B is in fairly good condition and has wany edged cladding on the 1st floor level and a green corrugated tin roof. The building is full of straw/hay.
- Barn C the L shaped extension is random rubble stone and brick work with cement render which has suffered from frost/weather damage. There is a mono pitched tin roof.

- 6.1.9 The Shropshire Council Type and Affordability of Housing SPD defines “Heritage assets” as buildings which normally:
- pre-date 1950;
  - comprise traditional materials and building methods;
  - are of permanent and substantial construction;
  - are of local significance and add value to the landscape
- 6.1.10 Paragraph 50 of the NPPF requires LPA’s to deliver a wide choice of quality homes and paragraph 51 requires them to bring them to bring vacant buildings back into use.
- 6.1.11 Policy CS6 of the Shropshire Council Core Strategy states that development should conserve and enhance the built and historic environment and be appropriate in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity.
- 6.1.12 Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire’s historic environment and does not adversely affect the heritage values and function of these assets.
- 6.1.13 As noted above open market residential conversions in the rural area will only be considered where they are of a design and form which has merit either as heritage, architectural or landscape features, and high standards of sustainability can be achieved. These detail matters are considered below.

## **6.2 Siting, scale and design of structure**

- 6.2.1 The National Planning Policy Framework (NPPF) at section 7 places an emphasis on achieving good design. Core Strategy policy CS6 which seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character. Policy CS17 also sees to protect and enhance the diversity, high quality and local character of Shropshire’s natural, built and historic environment. SAMDev policy MD2 also deals with sustainable design issues.
- 6.2.2 Officers and SC Conservation are of the opinion that the historic farmstead buildings are of sufficient architectural and historic merit to justify their retention and conversion. This is discussed further below in para. 6.3.

6.2.3 The original form and layout of the buildings has been retained. Officers have researched the issues in respect of two storey barns with hipped roofs as noted in the neighbour representation. What has been found is:

- Discovering Farm Buildings – J.E.C Peters 1981. Photograph 18 is a very similar arrangement to The Heath main building with a stables element in the hipped roof wing attached to the main cattle building. It is 19th Century example from Padstow, Cornwall.

- Historic Farm Buildings: An Introduction and Guide in association with the National Trust – Jeremy Lake 1989. Pages 108 and 109 contain line drawing illustrations of farm complexes at Franklin's Farm; Robinson's Farm and Dunckley's Farm, all on the Grafton Estate, Northamptonshire. All the major two storey farm buildings shown have hipped roofs.

6.2.4 Therefore, whilst it is acknowledged that roofs to agricultural buildings often tend to be a gable design there is a precedent for two storey farm buildings with hipped roofs. Moreover, there are examples of hipped roofed barns in the County and officers have recently noted examples in Apley, Woundale and Cressage. Furthermore, the applicant has provided a set of Watercolour paintings of the farmyard dating back to the 1920's which shows that the building had hipped roofs.

6.2.5 The cladding of the concrete rendered brickwork with reclaimed brick and replacement of the previously approved flat and mono pitched roofs with pitched roofs to match the main barn is considered an improvement and has a positive impact upon the visual amenity of the building.

6.2.6 The changes to the previously approved fenestration details are deemed minor and have little consequence on the character and appearance of the building.

### **6.3 Visual impact and landscaping**

6.3.1 In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, policies MD2 and MD13 of the Site Allocations and Management of Development (SAMDev), the National Planning Policy Framework (NPPF) published March 2012, Planning Practice Guidance and Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

6.3.2 The buildings form part of Coombys Farm but are located to the North West of the main farm within a complex shown as The Heath on OS mapping. The buildings are of stone with brick and some timber cladding. The conversion involves some amount of rebuilding and reroofing works some of which has already been completed on site; either prior to the PMBPA during ongoing repairs to the buildings following storm damage in the 1980's. Barns can be seen on historic pre 20th century OS mapping and a traditional farm building group here can be considered to be of historic merit as a landscape feature.

- 6.3.3 Having visited the site and seen the quality of the work already completed SC Conservation considers that this has been undertaken to a good standard. The barns contribute to the wider landscape context and are considered to be appropriate for conversion to residential from a conservation perspective. The proposed plans and joinery details provided are considered to appropriate and the proposals are considered to accord with policies, guidance and legislation as outlined above.

#### **6.4 Residential Amenity**

- 6.4.1 Given the limited nature of the use of the use of the adjacent agricultural buildings and the fact that there are no windows proposed on the north elevation it is considered that the proximity to these buildings is unlikely to give rise to undue noise and disturbance for the occupiers which would be detrimental to their living conditions.
- 6.4.2 There are no nearby neighbouring dwellings.
- 6.4.3 The proposal is therefore compliant with policy CS6 and MD2 which seek to safeguard residential amenity and achieve safe sustainable high quality development.

#### **6.5 Highway Safety**

- 6.5.1 The access onto the B4555 is existing and adequate for domestic as well as agricultural traffic, and there is an adequate area for parking and turning on site.
- 6.5.2 The proposal is therefore compliant with Policy CS6 requires development to be safe and accessible to all, and paragraph 32 of the NPPF states that decisions should take into account of whether a safe and suitable access to the site can be achieved.

#### **6.6 Ecology**

- 6.6.1 Core Strategy policy CS17 requires development not to adversely impact upon ecological interests. SAMDev policy MD12 sets out in detail the level of protection offered to Shropshire's natural assets.
- 6.6.2 The Council's Ecology Team is content that ecological interests would be safeguarded by conditions relating to the erection of bat and bird boxes and external lighting, and informatives in respect of bats, nesting Birds, birds nests, site clearance.

#### **6.7 Affordable Housing**

- 6.7.1 Shropshire Council's Core Strategy was adopted in March 2011 with the founding principle of seeking to create the context for "A Flourishing Shropshire". The Shropshire Council policy requires anyone developing a new open market dwelling

(subject to exceptions) to make an Affordable Housing Contribution (AHC), which depending on the development size and the prevailing target rate, could be a financial contribution and/or on site provision.

- 6.7.2 The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on 28th November 2014 announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000sq m), or 5 units or less in designated protected rural areas.
- 6.7.3 Reading and West Berkshire Councils sought to challenge the WMS at the High Court (Case Ref 76.2015) and on 31st July 2015 Mr Justice Holgate quashed the WMS and the Government subsequently withdrew relevant commentary from the National Planning Practice Guidance. From this point, Shropshire Council continued to apply its affordable housing policy.
- 6.7.4 The Government challenged this decision through the Court of Appeal which overturned Mr Holgate's decision on the 11th May 2016. Consequently, the WMS still applies and the National Planning Policy Guidance was amended on the 19th May 2016.
- 6.7.5 In addition to this the Housing & Planning Act gained Royal Assent on the 12th May 2016 and this gives power to Government to make secondary legislation to achieve the same result i.e. set minimum thresholds for affordable housing contributions.
- 6.7.6 In accordance with the view of the Planning Inspectorate it is considered that the WMS is a material consideration. Shropshire Council therefore accepts that the WMS applies as a significant material consideration and this means that the Council will not require an Affordable Housing Contribution for applications for 10 or less dwellings (5 or less within a designated protected rural area) and less than 1,000sqm floor area in the majority of cases.
- 6.7.7 However, this is cannot be a blanket rule and as such there may be exceptions to this. The Court of Appeal judgement referred to a statement made by the Government's Counsel in the High Court that (emphasis added):-  
“(i) As a matter of law the new national policy is only one of the matters which has to be considered under section 70(2) of TCPA 1990 and section 38(6) of TCPA 2004 when determining planning applications or formulating local plan policies (section 19(2) of PCPA 2004), albeit it is a matter to which the Secretary of State considers ‘very considerable weight should be attached’;”
- 6.7.8 The Court of Appeal agreed with this proposition and confirmed that the development plan remains the starting point for decision taking although it is not the law that greater weight must be attached to it than other considerations. The WMS is policy not binding law and does not countermand the requirement in s38(6) of the 2004 Act or s70(2) of the 1990 Act.

- 6.7.9 The Council's position is therefore that the WMS is a significant material consideration but it does not replace or automatically override the development plan as the starting point for planning decisions. Consequently, there may still be cases where the Council considers that its adopted policy attracts greater weight in the planning balance than the WMS.
- 6.7.10 In this case given the fact that the development proposed would be acceptable in principle, and in acknowledgment of the additional development costs involved in the conversion of these buildings it is considered that the WMS outweighs the development plan policy CS11 with respect to Affordable Housing contributions and therefore an affordable housing contribution can no longer be justified and therefore no weight should be given to this in the overall planning balance.

## **7.0 CONCLUSION**

- 7.1 The barns contribute to the wider landscape context. While overtime the buildings would appear to have the subject of some reconstruction, they are considered to be appropriate for conversion to residential from a conservation perspective. The proposal will bring vacant buildings back into useful occupation, making a sustainable use of the structures, and will provide two new dwellings with suitable private amenity space and parking facilities. There will be no adverse impact upon the residential amenity or ecology and the conversion and reuse of the site will have a positive impact up on the character and appearance of the area.

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

### **8.1 Risk Management**

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

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

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

## 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:

Central Government Guidance:

NPPF: National Planning Policy Framework

NPPG: National Planning Practice Guidance

Core Strategy Policies:

CS5: Countryside & Green Belt

CS6: Sustainable Design and Development Principles

Contact: Tim Rogers (01743) 258773

CS9: Infrastructure Contributions  
 CS17: Environmental Networks  
 CS11 Type and Affordability of Housing  
 Type and Affordability of Housing SPD

SAMDev Plan:  
 MD2 Sustainable Design  
 MD7a Managing Housing Development in the Countryside  
 MD12 Natural Environment  
 MD13 Historic Environment

#### RELEVANT PLANNING HISTORY:

15/01903/PMBPA Application for prior approval under part 3, class Q Permitted Development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use.

PNR 28th July 2015

SC/MB1963/0953/BR Extraction of sand & gravel (Detail) PERMIT 4th September 1963

BR/88/0069 Use for parking of one heavy goods vehicle REF 9th March 1988

BR/86/0552 Erection of agricultural worker's dwelling and installation of septic tank REF 2nd December 1986

BR/92/0356 Use of land for the parking of three lorries GRANT 8th October 1992

BR/92/0355 Use of land for the parking of one lorry GRANT 8th October 1992

BR/99/0674 Certificate of Lawfulness for the use of land for the stationing of three caravans for short term holiday use GRANT 3rd November 1999

BR/99/0673 Certificate of Lawfulness for the conversion of farmhouse to two dwellings and conversion of former agricultural building to a single dwelling GRANT 3rd November 1999

BR/98/0629 Use of existing dog kennels as breeding kennels GRANT 30th October 1998

#### 11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

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

Ecological Survey  
 Supporting Statement

Cabinet Member (Portfolio Holder)  
 Cllr M. Price

Local Member

Cllr Dave Tremellen

Appendices  
 APPENDIX 1 - Conditions



## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
3. The external materials shall match in colour, form and texture those of the existing building.  
Reason: To ensure that the works harmonise with the existing development.

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

4. Prior to first occupation / use of the building, details for the provision of bat boxes shall be submitted to and approved in writing by the Local Planning Authority. A minimum of 2 external bat boxes or integrated bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site. The boxes shall be sited in accordance with the latest guidance (currently [http://www.bats.org.uk/pages/bat\\_boxes.html#Putting up your box](http://www.bats.org.uk/pages/bat_boxes.html#Putting up your box)) prior to first occupation and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of roosting opportunities for bats, in accordance with MD12, CS17 and section 118 of the NPPF.

5. Prior to first occupation / use of the building, details for the provision of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following artificial nests shall be provided:
  1. A minimum of 2 swallow cups.
  2. A minimum of 1 open-fronted nest box suitable for blackbirds.
  3. A minimum of 1 box suitable for small birds (32mm hole, standard design).

The bird boxes shall be installed before first occupation of the dwellings and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 118 of the NPPF.

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

6. 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 class A, B, C, D, E, G, H,; 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.

7. 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 development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Bats and Lighting in the U.K. guidance.

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

### **Informatives**

1. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National planning policy Framework paragraph 187.

2. Central Government Guidance:  
NPPF: National Planning Policy Framework  
NPPG: National Planning Practice Guidance  
Planning (Listed Buildings and Conservation Areas) Act 1990 (Section 66&72)

Core Strategy Policies:

CS5: Countryside & Green Belt

CS6: Sustainable Design and Development Principles

CS9: Infrastructure Contributions

CS17: Environmental Networks

CS11 Type and Affordability of Housing

Type and Affordability of Housing SPD

SAMDev Plan:

MD2 Sustainable Design

MD7a Managing Housing Development in the Countryside

MD12 Natural Environment

MD13 Historic Environment

3. It is recommended that the applicant investigate ways of incorporating techniques of 'Sustainable Urban Drainage' into this development. These will help to minimise the impact of the development with features such as porous parking, detention ponds, grass swales and infiltration trenches. This will maintain the recharge of groundwater resources, reduce large fluctuations in river flows during rainfall and stop pollutants from road runoff from entering watercourses. Further information can be obtained from the Environment Agency.
4. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation.
5. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
6. Informative  
All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

#### Informative

Special consideration should be made to minimise the impact lighting would have on any bats. Lighting should not shine on potential ecological corridors and should be in line with the advice available in the Bat Conservation Trust booklet Bats and Lighting in the UK.

#### Nesting Birds

Chelmarsh (March 2015) found evidence of 3 Barn Swallow and one Blackbird nest within Barn C. However, Chelmarsh has stated that there are a number of alternative opportunities nearby for nesting swallows, and as such no mitigation for the loss of nesting habitat will be needed as part of this proposal. As the site is used by nesting birds there will be a constraint on when works can proceed so as to avoid disturbance. The following informative should be on the decision notice.

#### Informative

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an

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.

7. The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

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.