



Committee and date

South Planning Committee

23 October 2018

Development Management Report

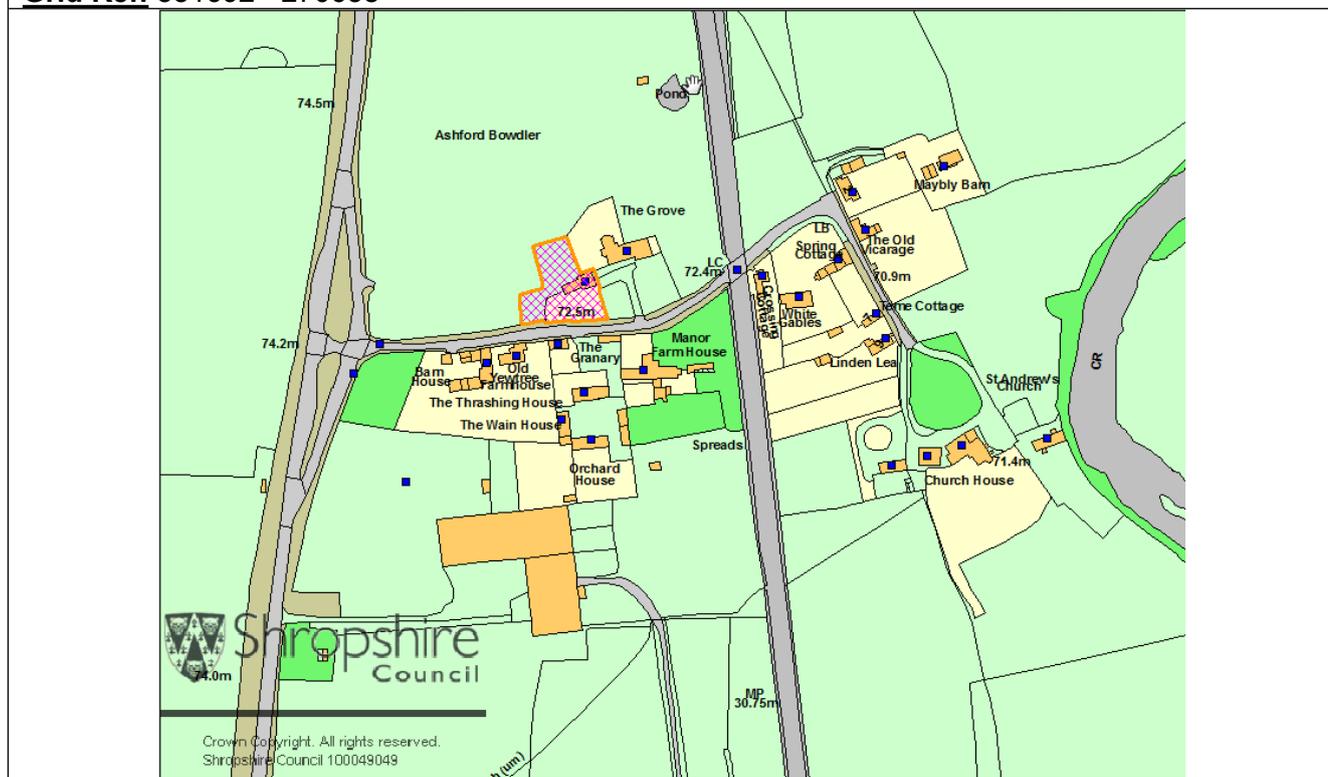
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

| | | |
|--|--|-----------------|
| Application Number: 18/03585/FUL | Parish: | Ashford Bowdler |
| Proposal: Conversion and extension to redundant agricultural building to form one dwelling and garage; change of use of agricultural land to form domestic curtilage; formation of vehicular access, and; installation of package treatment plant | | |
| Site Address: Barn South West Of The Grove Ashford Bowdler Shropshire | | |
| Applicant: Mr Rob Bryant | | |
| Case Officer: Cathryn Robinson | email: planningdmc@shropshire.gov.uk | |

Grid Ref: 351692 - 270638



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2018 For reference purposes only. No further copies may be made.

Contact: Tim Rogers (01743) 258773

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

REPORT

1.0 THE PROPOSAL

- 1.1** This application seeks permission for the conversion of a detached brick barn and cart shed to a dwelling; the erection of garage and annexe structure, connected to the main dwelling via glazed 'link' is also proposed alongside the conversion. The formation of a vehicular access, and the installation of package treatment plant are also necessary to facilitate the conversion.
- 1.2** This application is accompanied by a 'sister' application seeking listed building consent for the works - 18/03586/LBC.
- 1.3** NOTE: Former applications 12/03444/FUL and 16/00491/FUL permitted the residential conversion of this barn.

2.0 SITE LOCATION/DESCRIPTION

- 2.1** The barn to the south west of The Grove farmhouse is a grade II listed building containing stables, a cart shed and a byre. It dates from the 18th century and is constructed in brick with a dentil course under the eaves and a tiled hipped roof. There is a grass courtyard in front of the building enclosed by a wall constructed partly in brick and partly in modern block work. The barn and farmhouse fall within the Ashford Bowdler Conservation Area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1** The Parish Council have provided views contrary to the Officers recommendation. This application has been discussed with the Local Member whom concurs with the objection of the Parish Council. The Vice Chair of the South Planning Committee, in consultation with the Principal Officer, considers that the material planning considerations raised warrant determination by Committee in this case.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Ashford Bowdler Parish Council – Object:

Ashford Bowdler Parish Meeting would like to register objections to the planning application above. We are broadly supportive of bringing the old coach house back into use but not with the changes and design features shown on the latest drawings. Others in the village have raised a number of points related to planning regulations etc. and we don't propose to repeat them here.

Ashford Bowdler is a conservation village and its occupants desire it to remain as such. The coach house is firmly within the boundaries of the conservation area and is also listed. The features included in this application turn what was a design of its

time, a Victorian agricultural building, into a creation of the 21st century and that adjacent to a largely regency manor house. This would make it out of line with the rest of the village the buildings of which are mostly several hundred years of age. This flies in the face of the concept of having conservation areas. The design as proposed has huge areas of glass, front and back, much of which reaches the ground. These features are totally alien in the village. The original structure of the barn will be hardly recognisable with the design proposed.

When planning approval was requested by the previous owner less than three years ago, there were copious comments from council specialists heavily restricting what could be done with this building. One such comment said that there should be no windows on the rear elevation due to the proximity to The Grove. There appears to be no such comment this time around. Other applications in the village in recent times asking to make relatively minor changes to former agricultural buildings have been met with strong resistance from the Council. I would hope that the same position will be taken for this application.

Another significant issue is that of the garage. It is good to see that the height has been reduced twice since the original design. In our view, that really is not sufficient. The addition of a room above the garage raises its profile too much and it would become quite a dominant feature from the perspective of some neighbouring properties and when approaching along the lane. We recommend eliminating the room above and changing the roof profile to have a hipped end adjacent to the lane.

We do support other comments already made about the disposal of waste water from the building. As has been mentioned, the culvert already has a tendency to overflow after heavy rain so any extra water from the digester would only exacerbate the situation. Other comments made by an expert in water treatment also refer to the technical inadequacy of the Klargester unit for a small household. It would certainly be unacceptable to have inadequately treated waste being exited into the culvert. Treatment of waste here is a major concern. The comments about the culvert also are relevant to the construction of the bridge forming the main access to the property. This must be done without restriction to flow or we will have even more problems with flooding in that area.

In summary, the design needs a major rethink to better align with the rest of this conservation village; the water treatment plan should be reconsidered to eliminate waste water flowing into the culvert; the garage should be redesigned to avoid it being an eyesore.

4.1.2 SC Drainage – No Objection:

No objection; recommend conditions and informatives.

4.1.3 SC Conservation – No Objection:

27.09.18

These comments supplement those previously submitted on 24/8/18.

The proposed amended plans are noted where there are two principal amendments:

- Reduction of the proposed outbuilding/garage height; and

- Substitution of proposed window in outbuilding (gable) to a timber shutter (where it is noted that this is a means of a fire escape).

These proposed amendments are supported in principle, where the reduction in height shall aid subserviency to that of the principal listed building.

24.08.18

This proposal follows pre-application advice that was given as part of PREAPP/18/00130, where the principle of the conversion of this listed barn was deemed to be acceptable in principle. There were design concerns with the proposal, where further amended drawings were submitted for consideration by SC Conservation. Also a Structural Survey was requested in accordance with policy MD7a of SAMDev, in order to determine whether the barn is capable of conversion which is provided as part of these applications.

The proposed revisions for this proposal are noted, including the retention of the existing timber shutters that shall be pinned back in order to retain the agricultural appearance of the building. New windows have been accommodated by using the existing brick recesses, especially on the rear elevation, along with contrasting oak cladding, where the windows on the principal front elevation utilise existing openings. The main principle issue was how to accommodate the extra bedroom in a sensitive manner, given the existing sensitivity of the existing form of the barn, where any extension would likely to have a detrimental impact. The principle of a contemporary glazed units, supported by green oak, along with a green sedum roof, partially hidden by an existing rubblestone boundary wall to a new outbuilding was considered, where this was deemed to be the least harmful option and therefore retaining the historic legibility of the principal barn building. This also utilises the pleasing curvature of the existing rubblestone wall that contributes towards the setting of the site, along with the significance of the barn building in terms of its historic layout and field pattern. Ashford Bowdler is characterised by ancillary outbuildings on the frontage, where this outbuilding should be clearly ancillary to the principal listed barn, as well as fitting in with the other buildings that are adjacent within the conservation area, as an overall composition. It also affords uninterrupted views and linkage towards the rural hinterland beyond, keeping the outbuilding contained within the site, without causing undue clutter

The conclusion of the Structural Survey is noted, where it is deemed that the existing barn is capable of conversion with some localised repairs, which is not surprising, given the length of time it has remained vacant. This should therefore inform a relevant Schedule of Works in terms of what interventions are required to the building, including the relevant timber roof structure and the existing brickwork that may involve some rebuilding of existing lintels. Conditions are recommended below with regards to the extent of the likely works that may be required to the existing timber roof structure, along with relevant areas of repointing of the brickwork.

Overall, there are no principle objections to this proposal, where the conversion of this vacant listed building is supported in principle, subject to conditions.

4.1.4 SC Archaeology – No objection:

In accordance with the National Planning Policy Framework (NPPF) Section 141, it is recommended that a programme of archaeological work, to comprise an archaeological watching brief during any ground works associated with the proposed conversion, extension, landscaping and services, be made a condition of any planning permission.

4.1.5 SC Highways – No Objection:

The site is located on the northern side of the unclassified no through road which serves the village of Ashford Bowdler east of the A49 and to the south of Ludlow. The unclassified road is rural is subject to a low level of traffic generated by the occupation of the surrounding properties. The likely traffic generation of the dwelling is unlikely to result in a detrimental impact on the adjoining unclassified road.

The Proposed Site Plan drawing no. P003 Rev B shows the proposed layout of the site and new access. The new access is to be created by removing a section of the boundary wall and is considered to be acceptable for the prevailing highway conditions. The drainage ditch running parallel to the site frontage within the highway will need to be satisfactorily culverted under the access apron to ensure its integrity.

No objection, subject to the development being constructed in accordance with the approved details and the inclusion of conditions to reinforce the critical aspects.

4.1.6 SC Ecology – No Objection:

Recommend conditions and informatives are attached. Please also see the European Protected Species 3 tests matrix attached in Appendix 2 of this report.

4.1.7 SC Affordable Housing

Listed Buildings are exempt from the need to contribute towards affordable housing.

4.2 - Public Comments

4.2.1 This application was advertised via notice at the site. Additionally, the residents of five neighbouring residents were individually notified by way of publication. At the time of writing this report. At the time of writing this report sixteen representations had been received.

4.2.2 Of the five neutral representations, the comments raised are summarised as follows –

- A septic tank should be explored as the preferred drainage option
- Water should not discharge into the existing watercourse since it is prone to overflowing and at cold times of year is dangerous due to ice
- It is unclear whether or not the existing wall shall be sympathetically retained where the new access shall be installed; as a conservation area it is important that changes to buildings and other structures are in keeping with existing materials
- Preference for a hipped roof, to mimic the existing barn, as to lessen prominence from the lane
- Modern design at odds with the Georgian, Grade 2 listed neighbour

4.2.4 The eleven objections received are surmised as follows –

- The extension to the existing barn is considered to have a hugely detrimental impact on the character and appearance of the conservation area
- The extension will be visible from many public vantage points, and be obviously visible above the existing boundary wall
- When entering the village from the East property 'The Grove' and this redundant agricultural building dominates the view; the proposed extension will have an obvious impact to this important arrival into the village
- The garden intrudes into open countryside and the associated residential paraphernalia would have a detrimental impact on both the character and appearance of the conservation area
- The proposed green roof above the single storey link extension is also wholly out of character and would result in a new feature that is not present within the conservation area
- The glazing at the front of the link would not have the effect of being a lightweight link between two buildings as there is a solid wall to the rear.
- The partial demolition of the boundary wall, to make way for the new access, does not preserve the character or appearance of the conservation area
- The proposed glazing would destroy the character and appearance of this historic building
- The garden areas are created with new boundary fencing that intrude into the open countryside
- The addition of an extension which would more than double the footprint of the existing building clearly has a hugely detrimental impact on the character and appearance of the conservation area
- No physical evidence suggests a building was ever sited at this location; the historic maps do not support this application
- The impact to the conservation area is not duly assessed
- The deeper floor plan and gable ends, along with its prominent position adjacent to the highway give the impression of an incongruous bulky building that would have a dominating impact on the listed building and its setting
- There is a window proposed on the southern elevation on the upper floor of the extension to bedroom 1. 'The Granary' and is only 8.5m away and has two windows on its northern elevation to habitable rooms which would look directly into bedroom one thus resulting in a loss of residential amenity and privacy
- Ground floor windows at 'The Granary' will suffer from loss of light
- Submitted amendments considered insufficient to override issues initially raised

5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design of structure

Impact on visual amenity and the wider conservation area

Neighbouring amenity

Drainage

NOTE: the impact on the special architectural character and historic interest of the listed building and associated curtilage listed wall is considered within the report relating to listed building application 18/03586/LBC.

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The proposed site is situated within the Ashford Bowdler Conservation Area and affects a listed building or its setting and has the potential to impact on these heritage assets. The proposal therefore has to be considered against Shropshire Council policies CS6 and CS17 and with national policies and guidance including PPS5 Historic Environment Planning Practice Guide and section 16 of the National Planning Policy Framework (NPPF). Special regard has to be given to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.1.2 Shropshire Core Strategy CS5: Countryside and Green Belt seeks to control residential development within the open countryside. Since Bryn is not recognised as neither a hub nor cluster by CS4: Community Hubs and Community Clusters nor the newly adopted Site Allocations and Management of Development (SAMDev) Plan the development site is considered as open countryside where the establishment of new build residential dwellings is generally opposed. However policy CS5 allows for the conversion of redundant rural buildings in the countryside to dwellings provided the proposal takes account of and makes a positive contribution to the character of the building.

6.1.3 Core Strategy Policy CS17: Environmental Networks requires development to identify, protect and enhance the high quality of Shropshire's natural, built and historic environment whilst contributing to local distinctiveness and having due regard to the quality of Shropshire's environment. MD13: The Historic Environment of the Site Allocations and Management of Development (SAMDev) plan further encourages development which delivers positive benefits to heritage assets. In line with this policy the conversion of existing buildings, particularly of heritage/historic interest, is supported by both local and national policy requirements. The outbuilding in question is limestone constructed barn, curtilage listed in association with the Grade II listed principal farmhouse. The heritage status of this building sees it suitable, in principle, for residential development.

6.2 Siting, scale and design of structure

6.2.1 Currently proposed is the conversion of a redundant agricultural building to a family

home; some extensions are proposed in order to supplement the accommodation, namely add a garage and annexe accommodation. Preapplication advice was sought on an alternative proposal; initially a two-storey extension was intended to be directly affixed to the rear of the barn. A detached garage was intended to be subject to a separate application/additional dialogue. A two-storey introduction of this scale was deemed inappropriate in the manner it structure fundamentally alters the simple silhouette and footprint of the existing barn, which is currently distinctive its character. The only acceptable manner to gain accommodation of this scale was deemed via a 'detached' extension connected to the main barn via a glazed 'link'. The separation and reduction in intervention with the original building afforded by such an approach ensures that the existing agricultural character of the barn is not unduly eroded.

- 6.2.2** A preapplication site visit and further discussion was undertaken by the applicant, agent, local planning authority and conservation officers. In order to reduce the amount of new built form associated with this listed building and its setting, the amalgamation of the garage and annexe accommodation into a sole structure was suggested; provided this structure was; not excessive its scale, sufficiently subservient within its context and of a high quality overall design, this option was considered likely the best way in moving forward by way of avoiding future ad-hoc applications for outbuildings and further extensions as may be desired by the client.
- 6.2.3** Contrary to claims made within submitted representation, the addition as proposed does not double the existing building footprint nor accommodation levels. Providing some 183m² of accommodation, the proposal is noted as generous its scale; however roughly a fifth of this is contained within the basement, thus does not add the bulk of the property. Another fifth is also attributable to the double garage element; should this not have been an integral part of the scheme, it is likely garaging would have been sought as a separate structure thus further adding to visual mass within the property curtilage.
- 6.2.4** A gabled timber boarded ancillary building –where the gable end faces the highway –is proposed, and would be attached to the main barn via glazed 'link'; the structure will use the existing rubble stone wall to comprise some of its external walls. Its overall height would stand some 2.2m lower than the highest ridge height of the main barn, in order to establish its subservience; the use of timber boarding, deemed a 'lesser status' construction material also helps to reinforce the ancillary nature of this built form. In terms of it design, the justifying rationale is to mimic the surrounding character where lesser status outbuildings exhibit roadside fronting gables. Indeed, an example of such form is observed opposite the development site in the layout of the now residentially converted outbuildings – inclusive of neighbouring properties 'The Granary' and 'Barn House' - formerly associated with Manor Farm House; accordingly this design approach is not considered incongruous.
- 6.2.5** It is acknowledged that much of the objections received do not find favour with a contemporary design, however such an approach is considered preferable to a pastiche in this case. There is resistance to the reinstating of historical forms and design elements in the absence of sound evidence of their historic existence and merit. The introduction of more modern designed elements allows the main

heritage component to remain the predominant feature of the property, and allows the historic context and evolution of the building to be legibly read. Though the proposed built form would be forward of the principal elevation of the main building, the siting is considered appropriate in this instance as per paragraph 6.2.4 in echoing the local character of ancillary outbuildings.

6.2.6 A simple single storey link extension would attach the timber boarded outbuilding to the main barn; the flat roof structure would exhibit a green roof. Objection comments have raised concern with this element of the scheme. In regards to the green roof, whilst not currently observed within the conservation area, it is not a 'material' selection considered inappropriate in this case to warrant requests for its removal; indeed it could be considered of visual benefit where, from long range views, the vegetation could be read in context with the garden lawn thus reinforcing the visual separation desired between the structures. In regards to the referenced solid wall, this is noted to be an existing wall whose removal is considered inappropriate on heritage grounds; all new structural elements associated with this link are of a lightweight and glazed nature.

6.2.7 Representation has been received objecting to the glazing as proposed to the main barn. It is acknowledged that the previous permissions for the conversion of this building contained rooflights only to the rear elevation. The fenestration here designed is the result of discussion with our conservation officers, where existing fenestration has been retained as much as possible. New fenestration to the rear – where an absence of fenestration requires the insertion of some new units (be it windows or rooflights) to allow the building to function as a dwelling – has been designed as to make use of existing recesses in the brickwork; the glazing shall be located within these recesses, as to allow the character and form of this wall to be retained as much as possible rather than randomly placed windows punctuating the rear elevation. Existing openings are retained to the other elevations, with existing shutters also retained and pinned back as to avoid undue harm to the heritage asset and conserve its character.

6.3 Impact on visual amenity and the wider conservation area

6.3.1 The barn in question is Grade II listed; the building also sits within the Ashford Bowdler Conservation Area. The development site is acknowledged as being readily visibly to motorists and pedestrians alike travelling the U-classified highway which adjust from the A49 to provide access to the village; the site can also be glimpsed from the A49 trunk road. As such there is a notable degree of visual sensitivity which must be carefully considered prior to the permitting of works at this location.

6.3.2 In terms of the character of the street scene, when travelling eastwards along the U-classified highway it is noted that buildings on the right hand side of the road generally front the roadside, and The Grove and its associated barn (subject of this application) are set back from the highway. It is acknowledged that building forward of the principal elevation of the barn is at odds with this street-scene pattern; however it is considered that this is of lesser visual impact than its siting to the side or rear of the barn would be, where the built form and addition of bulk would represent visual erosion of the openness of the countryside to the North of the development site. As per paragraph 6.2.4, the design and siting of the structure

works to echo local character thus shall not look unduly alien. Further open fields shall remain to the West of the development site, thus not unduly impacting the visual entrance into the village nor the character and appearance of the conservation area.

6.3.3 In regards to the partial demolition of the boundary wall to the southern boundary to make way for the proposed access; these works were approved via former applications 12/03444/FUL and 16/00491/FUL for residential conversion of this barn, thus it would be inappropriate to now deem this intervention to the wall as unacceptable regardless of the level of objection this element of the proposal has attracted. Aside from gaining access from the South, the alternative to gaining access to this property would be via a lengthy driveway of over 90m extending from the existing field access across the fields to the North and West (which are within the ownership of the applicant). This is considered an option which would unacceptably erode the open countryside; additionally it would directly contrast with the character of Ashford Bowdler and its conservation area, where the vast majority of properties front – and are accessed via- the U-classified Ashford Bowdler Village road.

6.3.4 It is confirmed that alongside post and wire fencing to delineate the new garden, that native species hedgerow shall also comprise the proposed boundary treatment; this vegetative boundary is consistent with the locality thus would not appear as unduly alien nor prominent within the landscape. The new outlined property curtilage, whilst larger than the existing North field boundary, extends no further north than the existing residential curtilage of neighbouring The Grove. As such, it is not considered that the curtilage as proposed unacceptably erodes the surrounding countryside. It is acknowledged that domestic paraphernalia will pose some impact, however where the development site is adjacent to a residential property this is not considered of unacceptable visual impact.

6.3.5 In terms of alterations to the principal barn, interventions to the structure are generally kept to a minimum thus avoiding harm to the heritage asset in line with policy MD13. Due to changes in modern agricultural practices the buildings are no longer fit for their original purpose, and if no alternative use is found it is likely the buildings would be left to gradually deteriorate risking the long term maintenance and survival of important historic buildings; as such the permitting of a sympathetic conversion scheme for this building, rather than it remaining redundant and falling into a state of disarray, is required in order to best preserve and enhance the character and appearance of the conservation area.

6.4 Neighbouring amenity

6.4.1 Objection comments reference the fenestration proposed to the North elevation overlooking the amenity space of neighbouring 'The Grove'. At first floor level this fenestration is to serve a bathroom and a landing. Bathroom windows are generally obscure glazed for the privacy of the occupants, however this can be conditioned accordingly if deemed necessary. Accordingly a landing is not considered primary accommodation where the inclusion of fenestration can give rise to unacceptable overlooking nor loss of privacy; particularly in this instance where the landing window is located over the stairs. The remainder of the first floor windows to this elevation would have an angled view of the neighbouring garden; serving a hallway

(thus not primary living accommodation) and an additional bathroom (which shall be obscure glazed). In this light it is not considered that overlooking from any these windows would be of sufficient harm to warrant the refusal of this application.

6.4.2 In terms of ground floor windows, the bifold doors serving the dining room are the nearest to neighbouring 'The Grove' their siting would allow only angled vantage points into the neighbouring garden. As ground floor fenestration, it is considered that landscaping measures are appropriate in ensuring that no detrimental overlooking can occur. Additionally only one East facing window is proposed; this is at ground floor level, and at a height that would serve as a light source only rather than giving rise to direct overlooking of the neighbouring curtilage. It is neither considered that the levels of activity associated with the establishment of a sole residential dwelling at this location would cause disturbance sufficient to unduly harm the amenity of occupants of 'The Grove'.

6.4.3 Neighbouring property 'The Granary' sits opposite the development site, with approximately 8.6m separating this property from the roughly 1.8m high stone rubble wall comprising the Southern curtilage boundary of the development site. Accordingly, particularly at ground floor, 'The Granary' possesses a compromised situation in terms of its amenity; it must therefore be assessed whether or not the proposal significantly exacerbate the existing situation. In relation to the sun's path, where the neighbouring property sits South of the proposed outbuilding addition, it would not cast direct shadow over the neighbouring property. Though the proposal is acknowledged likely to give rise to some loss of natural daylight, it is not considered sufficient to warrant the refusal of this application; the triangular nature of the gable end facing the neighbouring property – rather than a solid rectangular form – aids this scenario. At the separation distance involved, it is neither considered that the outbuilding as proposed would sufficiently overbear the occupants of neighbouring 'The Granary' sufficiently as to warrant the refusal of this application.

6.4.4 Concern was raised regarding the inclusion of a first floor window, serving bedroom 1, of the proposed outbuilding. Due to the relationship with neighbouring 'The Granary' there was apprehension regarding potentially unacceptable overlooking; in the interests of working proactively as per paragraph 38 of the NPPF these concerns were relayed to the agent, who confirmed that the opening was included as means of fire escape only. Amended plans (received 18.09.18) specify that no glazing will be fitted to the opening, which will instead be in the form of a removable (from inside) opaque insulated panel with a timber shutter on the outside as required in order to meet building regulations for fire escape. Suitable conditions attached to the decision notice shall ensure that this cannot be substituted for glazing.

6.5 Drainage

6.5.1 A package sewage treatment plant is proposed and will be located in the land to the west of the site. Objection has been received in relation to the treatment of both surface and waste water, with a neighbouring culvert prone to overflow following heavy rain thus concerns are raised for any extra water from the digester exacerbating the situation. The representations in this regard are noted; full details of the plant and surface water disposal are the subject of a planning condition thus

will be confirmed at a later date. No objections have been raised by the Council's Drainage Consultants, who are content that drainage interests can be safeguarded through a condition on any approval issued. (Foul and surface water drainage details were conditioned (no.11) on the barn conversion scheme 16/00491/FUL for this building, which was permitted on the 16th June 2016).

7.0 CONCLUSION

7.1 The works are judged to be in scale and character with the original building and its setting. It is not considered that the proposal gives rise to sufficient harm to visual or residential amenities as to warrant the refusal of this application; the long-term safeguarding of this listed building is indeed a factor weighing in favour of the planning balance. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS5 – Countryside and Green Belt
CS6 - Sustainable Design and Development Principles
CS11 – Type and Affordability of Housing
CS17 - Environmental Networks
CS18 – Sustainable Water Management
MD2 - Sustainable Design
MD7a – Managing Housing Development in the Countryside
MD12 – Natural Environment
MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

12/03444/FUL Conversion of agricultural building to a two-storey dwelling; formation of vehicular access; installation of package treatment plant GRANT 21st February 2013
12/03758/LBC Alterations in association with conversion of agricultural building to a two storey dwelling GRANT 21st February 2013
16/00491/FUL Conversion of agricultural building to form one dwelling; formation of vehicular access; installation of package treatment plant GRANT 16th June 2016
16/00492/LBC Alterations in association with conversion of agricultural building to a two storey dwelling (renewal of planning permission 12/03758/LBC) GRANT 16th June 2016

18/03586/LBC Conversion and extension to redundant agricultural building to form one dwelling and garage; change of use of agricultural land to form domestic curtilage; formation of vehicular access, and; installation of package treatment plant PDE
 SS/1/7904/T/ Felling of an Oak tree PERCON 20th August 1997
 SS/1/6041/U/ Felling and lopping of trees OBJECT 24th October 1995
 SS/1/00/11132/TC Felling of Leylandii trees. NOOBJ 27th July 2000

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PCUI6ETDFFV00>

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

Design and Access Statement including Heritage Impact Assessment

Structural Survey

Ecology Report

Cabinet Member (Portfolio Holder)

Cllr R. Macey

Local Member

Cllr Vivienne Parry

Appendices

APPENDIX 1 – Conditions

APPENDIX 2 – European Protected Species tests form

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

Reason: The site is known to hold archaeological interest.

4. No development shall take place until either:

a) a European Protected Species (EPS) Mitigation Licence with respect to bats has been obtained from Natural England and submitted to the Local Planning Authority; or

b) a statement from an appropriately qualified and experienced ecologist has been submitted in writing to the Local Planning Authority explaining why a licence is not required and setting out any additional mitigation measures required.

Reason: To ensure the protection of bats, which are European Protected Species.

5. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

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

6. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the Proposed Site Plan drawing no. P003 Rev B prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety

7. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls of the proposed outbuilding and link extension shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory.

8. Prior to first occupation / use of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority and installed. 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 maintained for the lifetime of the development.

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

9. The access apron and culverting of the ditch shall be constructed in accordance with the Shropshire Council's specification currently in force for an access and shall be fully implemented prior to the dwelling being occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

10. 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 Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014). 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.

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

11. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification, no access gates or other means of closure shall be erected within 5.0 metres of the highway boundary.

Reason: To provide for the standing of parked vehicles clear of the highway carriageway in the interests of highway safety

12. Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order modifying, revoking or re-enacting that Order), no extension, garage, car port or other building/structure shall be

erected or installed within the curtilage of the dwelling hereby permitted without the prior written consent of the Local Planning Authority.

Reason: To safeguard the character and setting of the converted barn, in accordance with Policies CS5, CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

13. 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 windows shall at any time be placed in the South elevation of the outbuilding hereby permitted.

Reason: In order to protect the residential amenity of adjacent properties.

14. The curtilage for the enjoyment of this property shall remain as the land contained within the hedgerow and post and wire stock fence to garden boundary as delineated in site plan P003-B.

Reason: To avoid unacceptable encroachment of the domestic curtilage into the surrounding open countryside

15. The 'Garage' as labelled on approved drawing P101 C shall only be used for purposes of the storage of vehicles and/or domestic items associated with the dwelling. At no time shall this space be converted to primary accommodation in association with the existing dwelling.

Reason: To mitigate against the need for future detached garage structures, in order to safeguard the character and setting of the converted barn, in accordance with Policies CS5, CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

16. All demolition, conversion, site clearance, development, landscaping and biodiversity enhancements shall occur strictly in accordance with section 6.1 of the Ecological Appraisal (Greenscape Environmental, January 2018).

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species.

Informatives

1. In arriving at this decision Shropshire 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 38.

2. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation. Your attention is specifically drawn to any conditions above that require the Local Planning Authority's approval.

In accordance with Article 27 of the Town & Country Planning (Development Management Procedure) Order 2015 a fee may be payable to the Local Planning Authority for applications to

discharge conditions. If a fee is necessary this will be required per request. The required forms are available from www.planningportal.gov.uk or from the Local Planning Authority.

Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given. Failure to discharge pre-commencement conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. This planning permission does not authorise the applicant to:

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

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

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

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

4. The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

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

6. The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e. wheelie bins & recycling boxes).

Specific consideration must be given to kerbside collection points, in order to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycle ways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

<https://new.shropshire.gov.uk/planning/faqs/>

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

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal, 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 August 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 appropriately qualified and experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

8. Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

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

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

9. Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

APPENDIX 2

EUROPEAN PROTECTED SPECIES: The 'three tests'

Application reference number, site name and description:

18/03585/FUL
Barn South West Of The Grove Ashford Bowdler Shropshire
Conversion and extension to redundant agricultural building to form one dwelling and garage, formation of vehicular access and installation of package treatment plant

Date:

4th September 2018

5th September 2018

Officer:

Sophie Milburn
Assistant Biodiversity Officer
sophie.milburn@shropshire.gov.uk
Tel.: 01743 254765

Cathryn Robinson
Planning and Enforcement Officer
Email: Cathryn.Robinson@shropshire.gov.uk
Telephone: 01743 257 771

Test 1:

Is the development '**in the interests of public health and public safety**, or for other imperative reasons of **overriding public interest**, including those of a social or economic nature and beneficial consequences of primary importance for the environment'?

The development involves the conversion of a barn which has become redundant as agricultural buildings. The barn is of local heritage interest and assets to the area, falling within the Ashford Bowdler Conservation Area and where the building is Grade II listed. Adapting the buildings to allow for an alternative use (in this case residential dwellings) would ensure the buildings long-term preservation and retain physical evidence of the evolution of the area. As identified by national and local planning policy the conservation of such heritage assets is considered to be of significant public benefit since it has wider social, cultural, economic and environmental benefits.

The buildings are a non-renewable resource and its preservation will enable it to be

enjoyed by future generations and contribute to the local character and sense of place within the immediate surrounding area.

Test 2:

Is there **‘no satisfactory alternative?’**

The alternative would be not to convert the barn. Due to changes in modern agricultural practices the building is no longer fit for their original purpose, and if no alternative use is found it is likely the building would be left to gradually deteriorate risking the long term maintenance and survival of important historic buildings.

Test 3:

Is the proposed activity **‘not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status** in their natural range’?

Bat surveys between January and July 2018 identified day roosts for small numbers of lone male or non-breeding female common pipistrelles (max count 4) and brown long-eared bats (max count 1).

EPS offences under Article 12 are likely to be committed by the development proposal, i.e. damage or destruction of an EPS breeding site or resting place and killing or injury of an EPS.

The likely offences cannot be avoided through mitigation measures secured through planning conditions as the building is going to be converted.

Section 6.1 of the Ecological Appraisal (Greenscape Environmental, January 2018) sets out the following mitigation, compensation and enhancement measures, which will form part of the licence application:

- The Registered Consultant (RC) will carry out a pre-commencement check.
- ‘Bat(s) will be excluded from the roost areas using one-way exclusion techniques where possible.’ ‘Exclusion will be left in situ for 3 days and checked by the consultant.’
- ‘Removal of the roof will occur when bats are least likely to be present.’
- ‘The removal of the roof will not take place if the temperature has been below 4°C for 4 consecutive days and nights.’
- ‘The RC will be present on site when the roof is removed carefully by hand, particularly the ridges and around gables.’
- ‘If a bat is found when the RC is not present then work will stop in that area IMMEDIATELY and the RC contacted for advice.’
- ‘The bat can only be handled by the RC or authorised person unless it is in immediate danger. The bat must be carefully placed in a well ventilated lidded box with a small container (preferably a plastic bottle lid) with water in it. The container must be kept in a quiet and safe place.’
- ‘Care should be taken to avoid rousing the bat whilst transferring to a suitable location, this may be a suitable hibernation box or alternative roost. This must

provide a safe, quiet environment with stable cool temperature with relatively high humidity which is safe from disturbance.’

- ‘Gaps will be created by leaving a 20mm gap at the end of ridge tiles every 3m along the roof.’
- ‘Lining material under the ridge will comprise Bitumen Hessian material to BS EN 13707:2013 (1F) so bats cannot come into contact with modern breathable membranes.’
- ‘Once the building has been re-roofed bat access will be limited by sealing all doors and windows, thus reducing the potential for bats to re-enter where they are not expected.’
- At least two Schwegler 3FF/1FF bat boxes will be erected in the trees close to the field access.
- ‘[A] bat loft is to be installed in the new garage ... The following specifications should be adhered to when designing the bat loft’:
 - ‘The total volume of the void will be 4m wide, 5m long, by 2m high).’
 - ‘Skylights will not be placed in the roof section designated as a bat loft’.
 - ‘The loft space will have a small access hatch so it can be checked for bat activity, but not used for storage’.
 - ‘Bitumen hessian lining to F1, BS747 will be used so bats cannot come into contact with modern breathable membranes’.
 - ‘Access to the bat loft will be made by leaving two ridge tiles slightly raised leaving 15mm gaps. Under these areas, slits will be made in the membrane’.
 - ‘A lead replacement tile and/or a purpose-built ridge access tile will be installed on the western aspect of the loft just below gable height to allow bat access’.
 - ‘Roost opportunities in the bat loft will be made using 1m strips of Bitumen Hessian lining at the ridge tile. Gaps and slits will be made in these to allow bat access’.
 - ‘Wooden bat boxes will be created and erected on the gable ends of the bat loft to create further roost opportunity. These will have an entrance gap of 15mm’
 - ‘The roof space set aside for bats will be insulated between the floor and ceiling and not under the tiles ... to keep the area the right temperature for bats in summer.’

I am satisfied that the proposed development will not be detrimental to the maintenance of the populations of common pipistrelles and brown long-eared bats at favourable conservation status within their natural range, provided that the conditions set out in the response from Sophie Milburn to Consultee Access (dated 24th September 2018) are included on the decision notice and are appropriately enforced.

The conditions are:

- Working in accordance with protected species survey;
- European Protected Species Licence;
- Erection of bat boxes; and
- Lighting plan.

Guidance

The 'three tests' must be satisfied in all cases where a European Protected Species may be affected by a planning proposal and where derogation under Article 16 of the EC Habitats Directive 1992 would be required, i.e. an EPS licence to allow an activity which would otherwise be unlawful.

In cases where potential impacts upon a European Protected Species can be dealt with by appropriate precautionary methods of working which would make derogation unnecessary (since no offence under the legislation is likely to be committed), it is not necessary to consider the three tests.

The planning case officer should consider tests 1 (overriding public interest) and 2 (no satisfactory alternative). Further information may be required from the applicant/developer/agent to answer these tests. This should not be a burdensome request as this information will be required as part of the Natural England licence application. If further information is required, it can be requested under s62(3) of the Town and Country Planning Act 1990.

Test 3 (favourable conservation status) will be considered by SC Ecology, with guidance from Natural England.

A record of the consideration of the three tests is legally required. This completed matrix should be included on the case file and in the planning officer's report, and should be discussed and minuted at any committee meeting at which the application is discussed.

As well as the guidance provided below, pages 6 and 7 of the Natural England Guidance Note, *Application of the Three Tests to Licence Applications*, may assist the planning officer to answer tests 1 and 2.

Answering the three tests

Test 1

Is the development 'in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment'?

Preserving public health or public safety must also be shown to constitute a reason of **overriding public interest**. You need to demonstrate that action is required to alleviate a clear and imminent danger to members of the general public, e.g.:

1. If an unstable structure (e.g. a building or tree) is involved, either through neglect or outside influences (e.g. severe weather or seismic events), supporting evidence from an appropriately qualified person such as a structural engineer, arboriculturalist or tree surgeon should be sought.
2. If vandalism or trespass is used as an argument, evidence of reasonable measures to exclude the general public from the site must be presented. Evidence may be provided by the local police or fire services in relation to the number of incidents dealt with.

Imperative reasons of overriding public interest

Only public interests can be balanced against the conservation aims of the EC Habitats Directive (1992). Projects that are entirely in the interest of companies or individuals would generally not be considered covered.

Test 2

Is there 'no satisfactory alternative?'

An assessment of the alternative methods of meeting the need identified in test 1 should be provided. If there are any viable alternatives which would not have an impact on a European Protected Species, they must be used in preference to the one that does. Derogations under the EC Habitats Directive (1992) are the last resort.

Where another alternative exists, any arguments that it is not satisfactory will need to be convincing. An alternative cannot be deemed unsatisfactory because it would cause greater inconvenience or compel a change in behaviour.

This test should identify a) the problem or specific situation that needs to be addressed, b) any other solutions, and c) whether the alternative solutions will resolve the problem or specific situation in (a).

Test 3

Is the proposed activity 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'?

Assessment of the impact of a specific development will normally have to be at a local level (e.g. site or population) in order to be meaningful in the specific context.

Two things have to be distinguished in this test: a) the actual conservation status of the species at both a biogeographic and a (local) population level; and b) what the impact of the proposal would be.

In such cases where the conservation status is different at the different levels assessed, the situation at the local population level should be considered first, although ultimately both should be addressed.

No derogation under the EC Habitats Directive (1992) can be granted if the proposal would have a detrimental effect on the conservation status or the attainment of favourable conservation status for a European Protected Species at all levels. The net result of a derogation should be neutral or positive for a species.

In the case of the destruction of a breeding site or resting place it is easier to justify derogation if sufficient compensatory measures offset the impact and if the impact and the effectiveness of compensation measures are closely monitored to ensure that any risk for a species is detected.

Compensation measures do not replace or marginalise any of the three tests. All three tests must still be satisfied.