

## Development Management Report

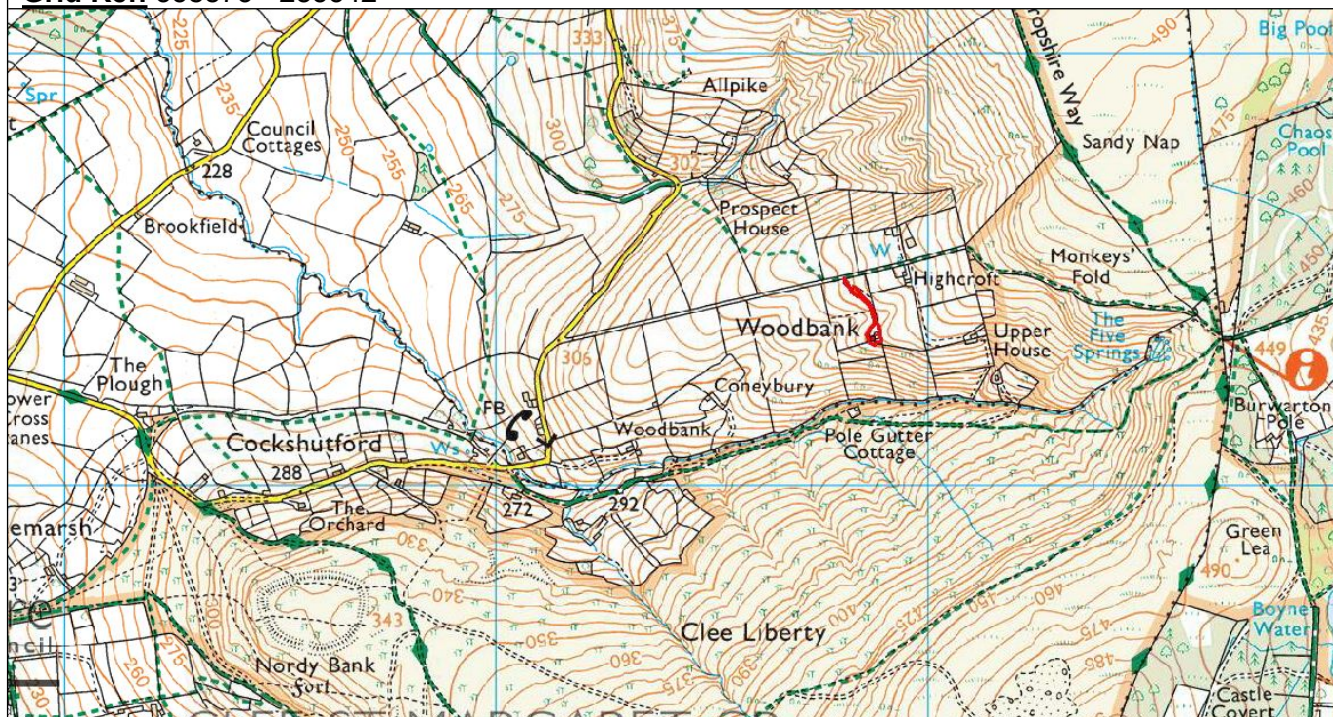
Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 18/00027/FUL	<b><u>Parish:</u></b>	Abdon And Heath
<b><u>Proposal:</u></b> Erection of detached garage and formation of turning area		
<b><u>Site Address:</u></b> Cartway Cottage Woodbank Abdon Craven Arms Shropshire		
<b><u>Applicant:</u></b> Mr And Mrs Graham		
<b><u>Case Officer:</u></b> Trystan Williams	<b><u>email:</u></b> <a href="mailto:planning.southern@shropshire.gov.uk">planning.southern@shropshire.gov.uk</a>	

**Grid Ref:** 358873 - 285342



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**Recommendation:** Grant permission subject to the conditions set out in Appendix 1

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application seeks full planning permission to erect a domestic outbuilding on land adjacent to, but outside the curtilage of, the above dwelling house. It would comprise a three-bay garage with a stone façade and planted 'green' roof, cut into higher ground at the rear, and with open-sided, oak-framed lean-to storage areas at either end. Amended plans show:
- the main roof gently graded rather than flat so as to continue the slope of the hillside behind;
  - a slightly lower front parapet;
  - the pitch of the lean-to roofs lowered correspondingly and covered in dark green/grey standing seam metal sheeting rather than plain clay tiles;
  - a tree-planted bund to be formed around a turning area in front the building; and
  - the remainder of the land parcel omitted from the site boundaries.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The property enjoys a remote location on the western slopes of Brown Clee in the Shropshire Hills Area of Outstanding Natural Beauty (AONB), with access via a steep unmade track off a minor road north of Cockshutford. The house itself is a traditional stone cottage nestled in a wooded hollow. However the outbuilding would stand elevated on a steeply sloping paddock to the north, alongside a driveway off the aforementioned track, and where a roughly level parking/turning area has previously been carved out of the hillside. The surrounding countryside has a very loose scatter of further dwellings and farm buildings (including 'Highcroft' 100 metres to the northeast), but is primarily open pastureland, scrub and moorland, including Clee Liberty common beyond Cartway Cottage. There are extensive views southwest down the Corvedale, over the scheduled ancient monument of 'Nurdy Bank' Iron Age hill fort.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 In accordance with the Council's adopted 'Scheme of Delegation', the application is referred to the planning committee because the officer recommendation of approval is contrary to an objection from the Parish Council, and moreover Shropshire Council's Local Member and the chairman and vice chair of its planning committee consider that the issues raised warrant the full committee's consideration.

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 Consultee comments

##### 4.1.1 Abdon Parish Council:

4/3/18 – objection:

The applicants' need for a domestic garage and store is understood, and it is also appreciated that the building's sunken form and green roof would help to minimise its visual impact, particularly if supplemented with tree planting. However councillors unanimously object to the choice of location, which is an elevated greenfield site distant from the cottage. This would necessitate considerable ground disturbance, especially given the building's excessive size. In turn these factors would result in a significant visual impact across a large part of the Corvedale, and also give rise to concerns over potential alternative uses for the building in the future.

7/9/18 – objection:

The site is part of an exceptionally attractive landscape within the AONB, and visible from vast areas. The proposed building is too large and too far from the house, making it unsuitable for ancillary domestic use. The applicants have made no compromises following previous comments, and councillors maintain their unanimous objection.

14/5/19 – objection:

The latest amendments still fail to address councillors' objections to the principle of the development in this location, and to the building's size. There are also concerns about the amount of excavation required, and hence ground stability.

4.1.2 Shropshire Hills AONB Partnership – comment:

No site-specific comments. However this indicates neither objection nor lack of objection to the application, and in reaching its decision the local planning authority must still satisfy its legal duty to take into account the purposes of the adjacent AONB designation, planning policies concerned with protecting the landscape, plus the statutory AONB Management Plan.

4.1.3 Shropshire Council Flood and Water Management – comment:

Any permission granted should include an 'informative' encouraging the use of sustainable surface water drainage systems.

4.1.4 Shropshire Council Rights of Way – no objection:

No comments

4.2 **Public comments**

## 4.2.1 Two local residents object on the following grounds:

- The building seems overly large and too far from the house for ancillary domestic use.
- There is ample room for a garage and store closer to the cottage, especially as the neighbour at Highcroft offers a 'land swap'.
- The application implies that the use of this field would change to domestic curtilage, which could open the door to further domestic development.
- This is a beautiful greenfield site on the upper slopes of Brown Clee, highly visible both close-up and in distant views.
- The shared access track is already in poor condition and has no turning point, and it is unclear who would fund the repair of any further damage caused by construction/delivery vehicles.

**5.0 THE MAIN ISSUES**

- Principle of development
- Scale, design and impact on landscape/historic environment
- Impact on residential amenity
- Access and highway safety

**6.0 OFFICER APPRAISAL****6.1 Principle of development**

6.1.1 Additions to existing dwellings are acceptable in principle under the 'Type and Affordability of Housing' Supplementary Planning Document (SPD), which supports Core Strategy Policy CS11. Whilst this does not refer specifically to detached outbuildings, these pose no fundamental policy conflict provided they are solely for ancillary domestic use.

6.1.2 In this case, though the building would be large and distant from the house, it is understood that the applicants have a number of private vehicles and other equipment (including an oil tank) which they wish to garage/store securely, whilst the area in question is level and already used for domestic parking and turning. By contrast space within the curtilage itself, and the stretch of driveway down to it, are severely constrained by the topography, and an outbuilding there would likely be inaccessible in poor weather and to larger vehicles such as an oil tanker. Meanwhile the land apparently offered by the neighbour is not available to the applicant at present, and the Council must determine the proposal before it. The building's use solely for ancillary domestic purposes could be reinforced by condition, whilst the fact that the site outline now excludes the remainder of the paddock removes any possibility of further structures or domestic paraphernalia being established without formal approval.

**6.2 Scale, design and impact on landscape/historic environment**

6.2.1 The SPD expects domestic additions to be sympathetic to the size, mass, character and appearance of the original dwelling and to the local context. Meanwhile the National Planning Policy Framework (NPPF) requires great weight to be given to conserving landscape and scenic beauty in AONBs, and to conserving the significance of designated heritage assets, including any contribution made by their setting.

6.2.2 This scheme would undoubtedly have some visual impact given the site's elevation, the openness of the surroundings, the building's relative isolation and its size. Officers can therefore understand the Parish Council's, objectors' and Local Member's concerns, and have in fact made repeated attempts to secure amendments. Whilst the proposed siting, and indeed the building's scale and form, remain fundamentally unchanged, the tree-planted bund and sloping grass roof now shown would serve to blend the development into the natural contours, and to filter if not entirely screen it in longer-distance views. Except at very close range it would not protrude above the skyline, and moreover there would be some visual benefits to restoring the previous 'scarring' of the hillside here, and covering vehicles and equipment currently left out in the open. Thus, also taking into account the physical constraints to an alternative siting, on balance it is considered that the impact can be sufficiently mitigated with appropriate controls over the landscaping, as well as the facing stonework\* and the colour of the garage doors.

(\*In this respect the applicant has indicated that the façade could instead be weatherboarded, should Members prefer.)

6.2.3 Officers also acknowledge the reciprocal views between the site and Nurdy Bank. However for similar reasons, and given the distance in-between, it is judged that the impact on the monument's setting would be very modest and would not amount to

demonstrable harm.

### **6.3 Impact on residential amenity**

6.3.1 Core Strategy policy CS6 seeks to safeguard residential and local amenity. Here are no concerns in this regard given the proposed building's distance from and lower level than the nearest neighbouring dwelling (Highcroft).

### **6.4 Access and highway safety**

6.4.1 Although the access route is particularly tortuous it is well established, and would not be altered. Any damage to the track's surface would be a civil matter and/or, since it is followed in part by a bridleway, subject to separate controls. Informatives would advise accordingly.

## **7.0 CONCLUSION**

7.1 The development is acceptable in principle on the understanding that it would be solely for ancillary domestic use, and given the particular topographical constraints. Inevitably, on account of the exposed location and the building's size, there would be some landscape impact, but with appropriate mitigation this is also considered acceptable on balance. Despite there being some inter-visibility the setting of the Nordy Bank scheduled ancient monument would not be harmed, and furthermore there are no undue concerns regarding residential amenity or access. Overall, therefore, the application is considered to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk management**

8.1.1 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**

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst 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.

8.2.2 Article 1 also requires that the desires of landowners must be balanced against the impact of development upon nationally important features and on residents.

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

### 8.3 **Equalities**

8.3.1 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**

9.1 There are likely financial implications if the decision and/or imposition of conditions are 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

#### Shropshire Local Development Framework:

#### Core Strategy Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

#### SAMDev Plan Policies:

MD2 - Sustainable Design

MD12 - Natural Environment

MD13 - Historic Environment

#### Supplementary Planning Documents:

Type and Affordability of Housing

### **Relevant Planning History:**

10/03099/FUL – Erection of extensions to dwelling incorporating existing attached outbuildings; formation of new vehicular access (permitted September 2010)

14/04985/FUL – Conversion and extension of existing attached outbuilding to form ancillary accommodation to dwelling (permitted March 2015)

## 11.0 ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P1XZQPTDIOB00>

<b>List of Background Papers:</b>
Application documents available on Council website
<b>Cabinet Member (Portfolio Holder):</b>
Cllr Gwilym Butler
<b>Local Member:</b>
Cllr Cecilia Motley
<b>Appendices:</b>
Appendix 1 – Conditions and Informatives



## **APPENDIX 1 – CONDITIONS AND INFORMATIVES**

### **STANDARD CONDITIONS**

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 in strict accordance with the approved, amended plans and drawings listed below.

Reason: To define the consent and ensure a satisfactory development in accordance with Policies CS5, CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

### **CONDITIONS THAT REQUIRE APPROVAL DURING CONSTRUCTION/PRIOR TO OCCUPATION OF THE DEVELOPMENT**

3. No above-ground development shall commence until samples/precise details of all external materials and finishes have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details and retained thereafter.

Reason: To ensure that the external appearance of the development is satisfactory, and to help safeguard the visual amenity of the Shropshire Hills Area of Outstanding Natural Beauty, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

4. Prior to their installation, details/samples of the external colour/finish of the garage doors shall be submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details and retained thereafter.

Reason: To ensure that the external appearance of the development is satisfactory, and to help safeguard the visual amenity of the Shropshire Hills Area of Outstanding Natural Beauty, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

5. The site shall be landscaped in accordance with the approved block plan and sectional drawing, and with precise details/schedules/specifications of the proposed tree planting, which shall be submitted to and approved in writing by the local planning authority prior to the first use of the new outbuilding. All planting and seeding shall be completed during the first planting and seeding seasons following the substantial completion or first use of the building, whichever is the sooner, and any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.



Reason: To ensure that the external appearance of the development is satisfactory, to help safeguard the visual amenities of the Shropshire Hills Area of Outstanding Natural Beauty, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

## **CONDITIONS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

6. The development shall only be used for purposes in connection with and ancillary to the occupation of the existing dwelling on the site (Cartway Cottage) as a single dwelling unit. At no time shall it be used for commercial or business purposes, or occupied as a separate independent dwelling.

Reason: To safeguard the residential amenities of the area, and prevent the establishment of a new dwelling or other potentially inappropriate use in the open countryside, in accordance with Policies CS5 and CS6 of the Shropshire Local Development Framework Adopted Core Strategy.

## **INFORMATIVES**

1. Your attention is drawn specifically to the conditions above which require the Local Planning Authority's prior approval of further details. In accordance with Article 27 of the Town and Country Planning (Development Management Procedure) Order 2015 a fee (currently £34) is payable to the Local Planning Authority for each request to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority.

Where conditions require the submission of details for approval before development commences or proceeds, at least 21 days' notice is required in order to allow proper consideration to be given.

Failure to discharge conditions at the relevant stages will result in a contravention of the terms of this permission. Any commencement of works may be unlawful and the Local Planning Authority may consequently take enforcement action.

2. This planning permission does not authorise the obstruction, realignment, reduction in width, resurfacing or other alteration of any public right of way, temporarily or otherwise. Before carrying out any such operation you should consult Shropshire Council's Outdoor Recreation Team and obtain any closure order or further consents which may be required.
3. This consent does not convey any right of vehicular access over any public right of way, and it is a road traffic offence to drive a motor vehicle on a public footpath, bridleway or restricted byway without lawful authority. Any person intending to use a right of way for vehicular access should first satisfy themselves that such a right exists, if necessary by taking legal advice.
4. This planning permission does not authorise any right of passage over, or the obstruction, realignment, reduction in width, resurfacing or other alteration of, any private driveway or right of access. Before carrying out any such operation you should first satisfy yourself that you have the necessary consent from the landowner(s) and any other affected party, if necessary by taking legal advice.

5. In order to control/attenuate surface water at source and avoid increasing the risk of flooding at the site or elsewhere, the incorporation of sustainable drainage systems (SuDS) such as soakaways designed in accordance with BRE Digest 365, water butts, rainwater harvesting, permeable paving, attenuation and grey water recycling should be considered.
6. 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 38.