

## Development Management Report

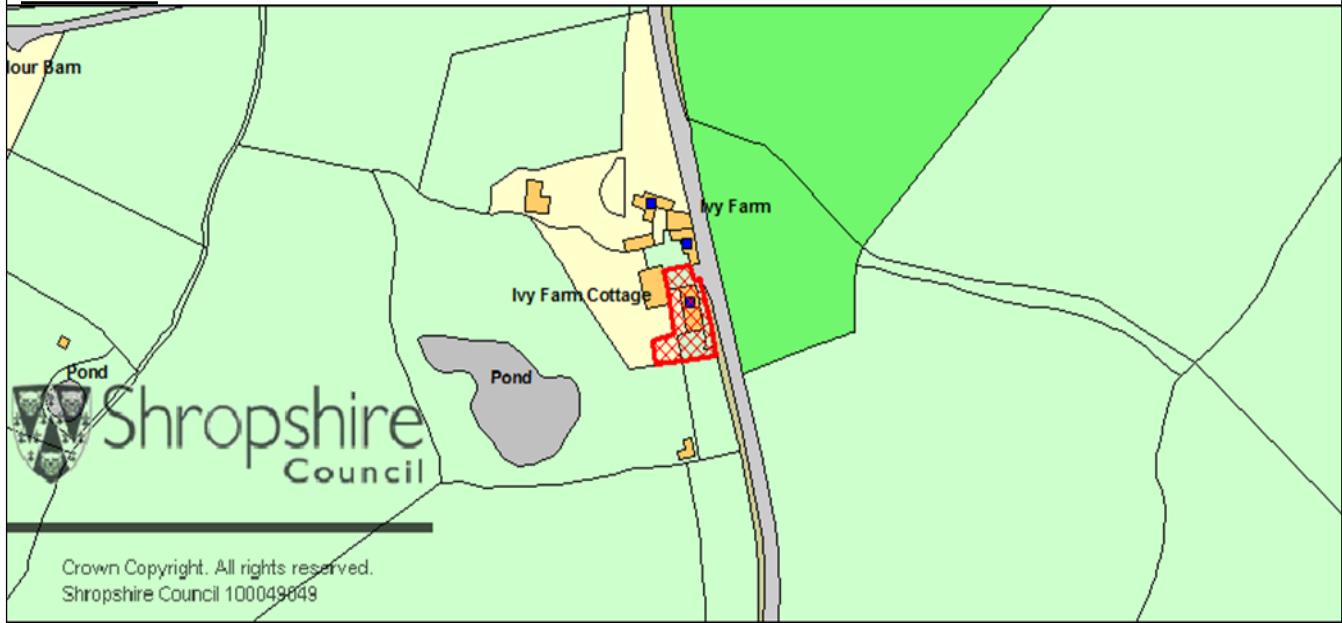
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 19/03143/FUL	<b>Parish:</b>	Whitchurch Rural
<b>Proposal:</b> Conversion of traditional agricultural dutch barn to 1No dwelling and associated amenity space		
<b>Site Address:</b> Barn South Of Ivy Farm Cottage Broughall Whitchurch Shropshire		
<b>Applicant:</b> Mr Mathew Dunn		
<b>Case Officer:</b> Jane Preece	<b>email:</b>	planning.northern@shropshire.gov.uk

**Grid Ref:** 358423 - 341835



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**Recommendation:- Refuse for the reasons as set out below.**

- It is considered by the Local Planning Authority that the application building as it presently exists is not of sufficient or significant heritage or landscape importance to be recognised as a local (non-designated) heritage asset to justify conversion to residential use in principle in this countryside location. The original building has been unsympathetically modified in the recent past, with alterations that are considered to appear as contrived and domestic and, as such detrimental to the simple character of the original structure. Further, in the absence of any substantive evidence to demonstrate otherwise, it is considered that the proposals are above and beyond the realm of conversion normally allowed under adopted policy and also do not meet the higher sustainable design criteria for open market conversions in the countryside. Policy MD7a requires market residential conversions to entail minimal alteration or rebuilding to the original building, whilst there is a further policy need for open market conversions in the countryside to meet the higher standards of sustainable design set out in Core Strategy Policy CS6 and in MD2. It is considered that substantial additions and alterations to the original dutch barn (ie roof and frame structure) are required to utilise the building for a dwelling. This includes reference to previous unsympathetic alterations carried out, which are also acknowledged in the submission as not meeting current design standards. Accordingly, it is considered that the proposals fail to comply with adopted Core Strategy policies CS5, CS6 and CS17; Site Allocations and Management of Development (SAMDev) Plan policies MD2 and MD7a; the Council's adopted SPD on the Type and Affordability of Housing and the National Planning Policy Framework 2019.
- In the absence of a Great Crested Newt Survey (as recommended in the submitted Extended Phase 1 Habitat Survey (Cheshire Ecology, March 2018)) and a bat method statement in relation to the removal of ivy from the building, it is considered that the proposal is unacceptable in that inadequate ecological information has been submitted with the application to allow the impact of the development on statutorily protected species to be fully assessed. In the absence of a Great Crested Newt Survey and a bat method statement it is not possible to conclude that the proposal will not cause unacceptable harm to protected species. Accordingly, the proposal is considered contrary to policies CS6 and CS17 of the adopted Shropshire Core Strategy 2011; policy MD12 of Site Allocations and Management of Development (SAMDev) Plan 2015 and the National Planning Policy Framework 2019.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the '*Conversion of traditional agricultural dutch barn to 1No dwelling and associated amenity space*' in relation to an existing dutch barn to the south of Ivy Farm Cottage, Broughall.
- 1.2 A traditional dutch barn is essentially a skeleton structure with posts/stanchions supporting a roof. The application dutch barn has previously been altered and adapted, particularly in 1999 with the infilling of the iron framework with rendered blockwork, timber cladding and fenestration, together with the provision of a first floor internal of partitioning. The proposal is to convert the already modified building to provide a 3 bed market residential dwelling. The three bedrooms (one with en-suite) and a separate bathroom will be provided on the first floor. The ground floor space will utilised to provide an open plan kitchen/diner and a large lounge.
- 1.3 The proposed scheme will utilise previously installed fenestration openings, with an additional double casement window at first floor level within the west elevation and the introduction of a large area full height glazing (from ground through to first level) within the southern elevation.
- 1.4 Access to the development is intended to utilise the existing access serving the property of Ivy Farm Cottage. This existing access is located immediately to the north of the dutch barn. Vehicles will enter at this point and then turn 90 degrees, to traverse between both the application building and Ivy Farm Cottage, before turning a further 90 degrees to the designated parking spaces - located to the immediate south of the building on area of hardstanding. Opposite the hardstanding an area of lawn is to be provided, square in shape and to be planted on it's northern boundary with a new hedge.
- 1.5 As regards drainage, it is proposed to connect to an existing septic tank system for foul drainage disposal. The septic tank is shown as located within the indicated lawn area of the site. Surface water is to be disposed of to soakaways. It is indicated that there will be no surface water increase as result of the development, given that the proposals are for the conversion of an existing building and will utilise existing hard standing areas.
- 1.6 The application is supported by the following:
- Existing and proposed plans
  - A completed CIL Form 0 and associated photographs
  - A design and access supporting statement
  - An ecology survey
  - A heritage impact assessment
  - A structural survey

## 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application building is located in the area of Broughall which lies to the east of Whitchurch in the parish of Whitchurch Rural. This area is defined in the development plan as an area of countryside.
- 2.2 The application building is a 19<sup>th</sup> century dutch barn, which has been previously altered with the infilling of the open sections, the provision of fenestration and the creation of a first floor (confirmed to have taken place in the spring of 1999). A photograph of the application building, as it currently exists, is provided within the submitted supporting information as below:



- 2.3 The building stands in close proximity to Ivy Farm Cottage and its associated annex (located to the immediate west/north west and north respectively). To the east the dutch barn is bounded by the highway.
- 2.4 Ivy Farm Cottage and the annex are within the ownership of the applicant. Historically, both the cottage and the annex were associated with and formed part of Ivy Farm, which lies to the immediate north. However, Ivy Farm and Ivy Farm Cottage are now in separate ownership.
- 2.5 Whilst named as a cottage, originally Ivy Farm Cottage was a farm building. Planning permission was granted to refurbish the building to provide two-bedroomed holiday accommodation in November 2000. Planning permission authorising the use of the holiday accommodation for full residential use was granted in 2018.

## 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The officer recommendation is one of refusal. The Parish Councils comments are of support, although the Parish Council have not given any material or any other reasons for their support. Nonetheless, the Principal Planning Officer in consultation with the Chair/Vice Chair of the relevant committee are of the view that consideration by the

Planning Committee is warranted in this instance for the following reason(s):

*'Acknowledged that barn is not a typical traditional type barn in design or appearance, however in consideration of previous structures of similar nature and class Q legislation Committee consideration in this instance considered reasonable'*

#### 4.0 **Community Representations**

##### 4.1 **Consultee Comments**

- 4.1.1 **SUDS** – Informative notes regarding sustainable drainage for the disposal of surface water from the development.
- 4.1.2 **SC Affordable Homes** – If the works to convert the out building/barn to a residential dwelling is significant then no affordable housing contribution will be payable in this instance.
- 4.1.3 **SC Highways – Recommendations: No Objection** – Subject to the development being constructed in accordance with the approved details and the following condition and informative notes.

**Condition – Parking and turning**

**Observations/Comments:** The application proposes to convert an agricultural Dutch barn to 1 No. dwelling and associated amenity space. The site is located on a rural class III road to the south of the A525. The current application was the subject of an earlier application under reference 18/04529/PMBPA. No highway concerns were raised in respect of the existing access arrangement.

**Informative notes:** Works on, within or abutting the public highway; Mud on highway; No drainage to discharge to highway.

- 4.1.4 **SC Conservation** - The proposed scheme relates to a 19th century dutch barn to Ivy Farm, an historic farmstead included on the Historic Farmsteads Characterisation Project, 2008 – 2010. A heritage assessment has been included as part of the submitted application, concluding that the main structure, roof and south gable end are original, and that the structure would be considered as a non-designated heritage asset given its age and intactness.

SAMDev policy MD7a states that 'the conversion of buildings to open market use will only be acceptable where the building is of a design and form which is of merit for its heritage/ landscape value, minimal alteration or rebuilding is required to achieve the development and the conversion scheme would respect the significance of the heritage asset, its setting and the local landscape character'. In addition to this policy CS5 also states that conversions will only be acceptable where respect for the heritage asset is achieved, with the Type and Affordability of Housing SPD requiring that buildings subject to conversion should be of substantial and permanent construction such that extensive rebuilding is not required.

Whilst we would concur with the heritage assessment in its conclusion that the remaining dutch barn structure would be of some merit in heritage terms, this only relates to the roof structure and carcass where substantial additions and alterations are required to utilise such a building for a dwelling. The existing alterations appear as contrived and domestic within this context, and detrimental to the simple character of the original structure. In terms of the principle of development it is queried whether the extent of works required for its use as a residence is over and above that normally allowed under policy MD7a as set out above i.e. minimal alteration and rebuilding. Furthermore the submitted structural survey is relatively inconclusive from the perspective of meeting building regulations and the extent of works required in terms of its foundations etc. The proposal does not therefore appear to accord with the applicable policies set out above in respect of conversions both in terms of the extent of works required to facilitate the conversion and the extent of the building considered to be of merit in heritage terms.

- 4.1.5 **SC Ecology** – The Extended Phase 1 Habitat Survey (Cheshire Ecology, March 2018) recommends a GCN survey. Please re-consult Ecology once this has been submitted.

In addition, a bat method statement should be provided in relation to removal of ivy from the building.

## 4.2 Public Comments

- 4.2.1 **Whitchurch Rural Parish Council** – The Parish Council supports this application for the conversion of an agricultural building.

- 4.2.2 **Public representations** – None received.

**NB:** The full content of all consultee and public comments are available to view on the Council's planning portal pages for the application.

## 5.0 THE MAIN ISSUES

- Policy and principle of development
- Impact on ecology/biodiversity

## 6.0 OFFICER APPRAISAL

### 6.1 Background

- 6.1.1 The site has an extensive planning history, as set out in the 'Relevant Planning History' section below in this report.
- 6.1.2 Of particular relevance is the fact that this application for full planning permission follows

on from the refusal of two previous prior notification applications under Class Q of the General Permitted Development Order, ie:

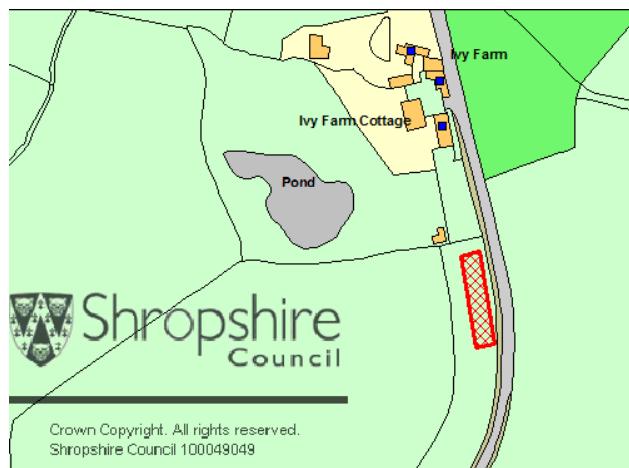
- 6.1.3 **18/03012/PMBPA** - Notification for Prior Approval under Schedule 2, Part 3 Class Q of the Town & Country Planning (General Permitted Development) Order 2015 for the conversion of agricultural building to one dwellinghouse - REFUSED 30th August 2018. The application was refused for the follow reason(s):
- 6.1.4 It is considered that the proposal does not fall within the scope of 'Permitted Development' as set out in the Schedule, 2 Part 3, Class Q (a); Q.1 (a); Q.1 (f) and Q.1 (i) of the Town and Country Planning (General Permitted Development) Order 2015 in that:
- (a) the curtilage of the application site as outlined in red on the submitted plans equates to an area larger than the footprint of the building itself and as such fails to accord with the Q. (a) and the definition of 'curtilage' provided within paragraph X of Part 3;
  - (b) insufficient information has been submitted with the application to demonstrate that the building was used solely for an agriculture use and was so used for the purposes of a trade or business and as part of an established agricultural unit, as defined in paragraph X of Part 3, on or prior to 20th March, 2013. Therefore, the Local Planning Authority is not in a position to conclude compliance with the limitations of the Order under Q.1 (a);
  - (c) the building appears to have been altered during its lifetime but it is not clear when the alterations occurred and under what planning legislative provisions. In this regard the Local Planning Authority therefore has insufficient information before it for consideration to assess whether Q.1 (f) is satisfied or not.
  - (d) no detailed structural information accompanies the application and the extent of the building operations proposed as part of the conversion scheme are considered to be beyond the extent of that considered reasonably necessary for the building to function as a dwellinghouse. Therefore, the proposal fails to comply with Q.1 (i).
- Given the conclusions that the application proposals are not deemed to be 'permitted development' under Part 3, Class Q. (a) of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) and further that insufficient information has been submitted to enable the authority to establish whether the proposal complies with Q.1 (a); Q.1(f) and Q.1 (i) then the proposals cannot be addressed under the prior approval provisions set out in Q.2 of the Order. The proposal requires planning permission.
- 6.1.5 **18/04529/PMBPA** Notification for Prior Approval under Schedule 2, Part 3 Class Q of the Town & Country Planning (General Permitted Development) Order 2015 for the conversion of agricultural building to one dwellinghouse REFUSE 27th November 2018. This second prior notification application was refused for the following reason(s):
- 6.1.6 It is considered that the proposal does not fall within the scope of 'Permitted Development' as set out in the Schedule, 2 Part 3, Class Q (a); Q.1 (a) and Q.1 (i)

of the Town and Country Planning (General Permitted Development) Order 2015 in that:

- (a) insufficient information has been submitted with the application to demonstrate that the building was used solely for an agriculture use and was so used for the purposes of a trade or business and as part of an established agricultural unit, as defined in paragraph X of Part 3, on or prior to 20th March, 2013. Therefore, the Local Planning Authority is not in a position to conclude compliance with the limitations of the Order under Q.1 (a);
- (b) new structural works will be required outside the scope of the legislation and the extent of the building operations proposed as part of the conversion scheme are considered to be beyond the extent of that considered reasonably necessary for the building to function as a dwellinghouse. Therefore, the proposal fails to comply with Q.1 (i).

Given the conclusions that the application proposals are not deemed to be 'permitted development' under Part 3, Class Q. (a) of The Town and Country Planning (General Permitted Development) Order 2015 (as amended), for the reasons discussed above then the proposals cannot be addressed under the prior approval provisions set out in Q.2 of the Order. The proposal requires planning permission.

- 6.1.7 The current application now seeks full planning permission for an updated version of the same conversion scheme refused under 18/04529/PMBPA. Within the supporting Design and Access Statement it is contended that with this application being for full planning permission '*... the previous reasons for non-compliance with the GPDO are either not relevant or have been addressed ...*' However, on the matter of structure and the extent of works involved for conversion officers do not agree with this contention. No detail as to the full scope and extent of the works required to achieve the residential conversion has been added to the proposed plans and elevations nor to supplement the Structural Report in connection with this application for full planning permission. To this end, the extent of the actual works required to achieve the conversion to residential use are not fully detailed or clear. This is a concern raised by the Council's Conservation Officer discussed further elsewhere within this report.
- 6.1.8 Within the submitted Design and Access Statement it is further stated that the application building is '*... largely redundant for agricultural purposes.*' The building is used for '*storage and occasional lambing*'. Internal photographs showing the storage etc have been submitted for CIL purposes and are also included within the submitted HSI report. Nonetheless, a concurrent planning application is presently before the Council for consideration by the Dunn family, seeking planning permission (reference 19/02523/FUL) for the 'Erection a general purpose agricultural building' on land to the south of Ivy Farm Cottage - a proposed 5 bay building in the position shown on the map below. Access provision was absent from that submission but have now been provided. Access to the newly proposed agricultural building is to be via the same access as for this conversion proposal and serving Ivy Farm Cottage, with an elongated access route south between the proposed conversion and existing cottage.



## 6.2 Policy and principle of development

- 6.2.1 The application seeks approval for the conversion of a modified dutch barn located in the open countryside to form an open market residential unit. As such the proposal falls to be considered in principle against local and national policy set out in Core Strategy CS5; SAMDev Plan policy MD7a; the Councils' Supplementary Planning Document (SPD) on the Type and Affordability of Housing and the National Planning Policy Framework (NPPF).
- 6.2.2 Policy CS5 strictly controls development within the open countryside. In respect of the re-use of rural buildings the policy gives priority to the conversion of rural buildings for economic/employment uses (including live-work proposals and tourism), affordable and agricultural workers housing and community uses appropriate to a countryside location. In respect of open market residential conversion the policy states: '*Open market residential conversions will only be considered where respect for the heritage asset (as also required by Policy CS17) and high standards of sustainability are achieved ...*'
- 6.2.3 Further to Core Strategy Policy CS5, SAMDev Plan policy MD7a reiterates that development will be strictly controlled outside of the main market towns, key centres and community hubs/clusters. The policy specifies that: '*... In the case of market residential conversions, requiring planning permission, the conversion of buildings to open market use will only be acceptable where the building is of a design and form which is of merit for its heritage/ landscape value, minimal alteration or rebuilding is required to achieve the development and the conversion scheme would respect the significance of the heritage asset, its setting and the local landscape character. ...*'
- 6.2.4 At paragraph 3.56 of the explanation attached to policy MD7a it further states that: '*...In addition to the requirements in MD13, to comply with Policy CS5, applications for conversions to open market residential uses should provide evidence of: the buildings' merits, the scheme's contribution to local character, distinctiveness and sustainability improvements. Where appropriate, development should meet the higher standards of sustainable design set out in Core Strategy Policy CS6 and in MD2.*'
- 6.2.5 With regard to the conversion of existing buildings in the countryside into open market dwellings, both policy CS5, MD7a and the Housing SPD make it clear that such proposals will only be allowed where the existing building is considered a "heritage asset" and where respect for the heritage asset is achieved and further where minimal alteration or rebuilding is required. The Housing SPD goes on to define a "heritage asset" as follows:

- 6.2.6 ‘ “Heritage assets” 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. ’
- 6.2.7 At a national level, paragraph 79 of the NPPF states that: ‘*Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply: ... b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; ...*’
- 6.2.8 The definition of a heritage asset is also given in Annex 2 of the NPPF, quoted as follows:
- 6.2.9 ‘**Heritage asset**: A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).’
- 6.2.10 On the basis of the local and national policy stance set out above it is evident that the main factor in establishing the principle of residential conversion in this case revolves around assessing the heritage value of the application building and the extent of works involved in achieving residential conversion.
- 6.2.11 Policy MD13 is further concerned with heritage assets. In accordance with Policies CS6 and CS17, policy MD13 seeks to ensure that ‘ ... heritage assets will be protected, conserved, sympathetically enhanced and restored by: ... avoid[ing] harm or loss of significance to designated or non-designated heritage assets, including their settings ... ’

### **Heritage/landscape value**

- 6.2.12 The application is accompanied by a Heritage Impact Assessment, undertaken by Richard K Morriss. The Assessment confirms the application to be a late century iron-framed Dutch barn. The structure is assumed, but not evidenced with provenance, to be the product of the former local WH Smith foundry. The main iron frame, roof trusses and corrugated roof sheeting are stated to be original and intact but it is acknowledged that three of the walls are of late 20<sup>th</sup> century construction. Nonetheless, the Assessment draws the opinion that: ‘*given its date and its assumed provenance as a product of the nearby W H Smith foundry in Whitchurch, it should be considered as a non-designated heritage asset.*’
- 6.2.13 Officers have considered the Assessment. As noted in the Conservation consultation comments given in section 4.1.4 whilst the original carcass may pre-date 1950 the building has been modified from its original form with the infilling of walls etc in the late 20<sup>th</sup> century (in 1999). Therefore, the dutch barn that exists on site today and that has been put forward for conversion as it stands includes substantial modern alterations and additions that, to quote the Council’s Conservation Officer, appear as ‘*contrived and domestic*’ and ‘*detrimental to the simple character of the original structure*’. On balance,

therefore the building as it stands in its current form is not considered to be a heritage asset worthy of conversion to open market residential use as required by policy. Nor is it considered to be of sufficient landscape value.

- 6.2.14 The Planning Practice Guidance of the NPPF cautions that: '*A substantial majority of buildings have little or no heritage significance and thus do not constitute heritage assets. Only a minority have enough heritage interest for their significance to be a material consideration in the planning process.*'

### Conversion works

- 6.2.15 The extent of works required to achieve the conversion to residential use was raised as an issue during the consideration of the previous prior notification applications that were refused. However, no supplementary and detailed information accompanies this full application for planning permission to inform the full scope of works that would be associated with the conversion proposals; either in the form of detailed plans or additional structural information.
- 6.2.16 To expand, the application is accompanied by proposed plans and elevations and a structural survey. The submitted plans are basic, depicting elevations and layout only, whilst the structural survey is not considered to be that detailed. The stated purpose of the survey is as being to '*... assess the general structural condition in relation to proposed conversion to residential accommodation.*' Although the survey concludes that: '*The barn is considered to be in generally sound condition and suitable for the proposed conversion without the need for large scale renewal or rebuilding*' officers consider there is no detailed evidence within the survey content to inform how that conclusion was arrived at. The foundations were not inspected and the Survey acknowledges that the proposed floor construction is unknown and may necessitate the deepening of the existing foundations. Further the Survey acknowledges that '*The age, construction and nature of the building, is such that it inevitably contains elements which do not comply with current design standards. ...*' and that '*... additional structure will be required within the southern elevation to accommodate the proposed [large glazed] opening.*' Other than that, there is no detail as to the full extent and recommendations for the building work required to achieve the residential conversion. Officers would highlight at this conjecture not only the policy requirement for '*minimal alteration or rebuilding*', but further the unsympathetic nature of the 20<sup>th</sup> alterations/additions to the original structure that currently exist (as commented on by the Conservation Officer) and the further policy need for open market conversions in the countryside to meet the higher standards of sustainable design set out in Core Strategy Policy CS6 and in MD2.
- 6.2.17 **Summary** - In light of all the above, officers do not consider that the proposal satisfies policy in principle in relation to conversions in the countryside. In short, the application building is not considered to be of sufficient heritage or landscape value to comply with adopted local plan policy CS5 and MD7a in principle. Furthermore, there is concern over the extent of rebuilding work that would be required to achieve residential conversion and the lack of adequate supporting structural and scope of conversion work information clearly detailing the full extent of the required works. These views are supported by the consultation comments received from the Council's Conservation Officer, as set out in section 4.1.4 above.

- 6.2.18 Overall, it is considered that the sustainable credentials of the application proposals are lacking and not sufficient to tip the planning balance in favour of approval in this case.
- 6.2.19 It is suggested that the best alternative use for the building other than agriculture and paying due regard to the close proximity of the building to the host dwelling of Ivy Farm Cottage and its detached residential annex, would be for ancillary domestic use linked to the host dwelling (such as private residential garaging and incidental domestic storage, but not including use as living accommodation).

### 6.3 Impact on ecology/biodiversity

- 6.3.1 Core Strategy Policies CS6 and CS1, together with SAMDev policy MD12 and the NPPF state that all development should protect the natural environment whilst enhancing environmental assets.
- 6.3.2 The application is supported by an Extended Phase 1 Habitat Survey by Cheshire Ecology Ltd (dated 5<sup>th</sup> March 2018). Given the existence of ponds in the locality, one of which has a very high HSI value for Great Crested Newts (GCN) and the other of which has not yet been assessed, then Cheshire Ecology recommends a GCN survey should be carried out. Furthermore, as the eastern and northern sides of the barn have quite a lot of ivy cover, Cheshire Ecology could not exclude the possibility that bats may use the ivy for cover. In the circumstances, the Council's Ecologist has commented that both a GCN Survey and a bat method statement in relation to removal of ivy from the building should be provided for consideration prior to the determination of this application.
- 6.3.3 No GCN Survey or bat method statement has been provided. As such there are unresolved ecology issues. In the absence of adequate ecology information as referred to in paragraph 6.3.2 above, then the full impact of the proposal is unable to be fully assessed and the Council unable to conclude there will be no unacceptable impact on protected species. Therefore, the application is contrary to CS17, MD12 and the NPPF.

## 7.0 CONCLUSION

- 7.1 It is considered by officers that the proposal is unacceptable and not adopted planning policy compliant. Refusal is therefore recommended, for the reason(s) set out below:
1. It is considered by the Local Planning Authority that the application building as it presently exists is not of sufficient or significant heritage or landscape importance to be recognised as a local (non-designated) heritage asset to justify conversion to residential use in principle in this countryside location. The original building has been unsympathetically modified in the recent past, with alterations that are considered to appear as contrived and domestic and, as such detrimental to the simple character of the original structure. Further, in the absence of any substantive evidence to demonstrate otherwise, it is considered that the proposals are above and beyond the realm of conversion normally allowed under adopted policy and also do not meet the higher sustainable design criteria for open market conversions in the countryside. Policy MD7a requires market residential conversions to entail minimal alteration or rebuilding to the original building, whilst there is a further policy need for open market conversions in the countryside to meet the higher standards of sustainable design set out in Core Strategy Policy CS6 and in MD2. It is considered that substantial additions and alterations to the original dutch barn (ie roof and frame structure) are required to utilise the building for a dwelling. This includes reference to previous unsympathetic alterations carried out, which are also acknowledged in the

submission as not meeting current design standards. Accordingly, it is considered that the proposals fail to comply with adopted Core Strategy policies CS5, CS6 and CS17; Site Allocations and Management of Development (SAMDev) Plan policies MD2 and MD7a; the Council's adopted SPD on the Type and Affordability of Housing and the National Planning Policy Framework 2019.

2. In the absence of a Great Crested Newt Survey (as recommended in the submitted Extended Phase 1 Habitat Survey (Cheshire Ecology, March 2018)) and a bat method statement in relation to the removal of ivy from the building, it is considered that the proposal is unacceptable in that inadequate ecological information has been submitted with the application to allow the impact of the development on statutorily protected species to be fully assessed. In the absence of a Great Crested Newt Survey and a bat method statement it is not possible to conclude that the proposal will not cause unacceptable harm to protected species. Accordingly, the proposal is considered contrary to policies CS6 and CS17 of the adopted Shropshire Core Strategy 2011; policy MD12 of Site Allocations and Management of Development (SAMDev) Plan 2015 and the National Planning Policy Framework 2019.
  - 7.2 In considering the application due regard has been given to the following planning policies as relevant: Shropshire Core Strategy CS5, CS6, CS17 and CS18; Site Allocations and Management of Development (SAMDev) Plan policies MD2, MD7a, MD12, MD13 and S18; the Council's SPD on the Type and Affordability of Housing and the National Planning Policy Framework published February 2019.
- 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

Local Development Plan and Nation policies:

CS1 - Strategic Approach

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD2 - Sustainable Design

MD7A - Managing Housing Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S18 - Whitchurch

SPD Type and Affordability of Housing

National Planning Policy Framework

### RELEVANT PLANNING HISTORY:

**NS/87/00072/FUL** Conversion of redundant agricultural buildings into holiday accommodation including installation of a septic tank GRANT 13th January 1987

**NS/99/10043/FUL** Refurbishment of building to include retention of single storey lounge/kitchen/utility/bathroom extension to provide two-bedroomed holiday accommodation' Permission GRANTED 20<sup>th</sup> November 2000

**NS/99/10044/FUL** Conversion of holiday accommodation to form residential annex and replace flat with pitched roof west elevation, erection of two storey extension to south elevation of main house, provision of 4 car parking spaces and temporary siting of mobile home. Permission PER 25th August 1999

**10/01827/FUL** Erection of an agricultural storage building/workshop and formation of new vehicular access REFUSE 13th September 2010

**13/02638/COU** Change of use from holiday accommodation to affordable dwelling NPW 14th August 2013

**14/00086/FUL** Conversion of holiday let to residential dwelling with annex and outbuildings GRANT 24th August 2018

**17/05627/CPE** Application for lawful development certificate in respect of continued use of Ivy Farm Cottage as an unfettered dwelling without compliance with condition 10 of planning permission NS/99/10043/FUL limiting the use to that of holiday accommodation only REFUSE 10th August 2018

**18/03012/PMBPA** Notification for Prior Approval under Schedule 2, Part 3 Class Q of the Town & Country Planning (General Permitted Development) Order 2015 for the conversion of agricultural building to one dwellinghouse REFUSE 30th August 2018

**18/04529/PMBPA** Notification for Prior Approval under Schedule 2, Part 3 Class Q of the Town & Country Planning (General Permitted Development) Order 2015 for the conversion of agricultural building to one dwellinghouse REFUSE 27th November 2018

**19/02523/FUL** Erection of a general purpose agricultural building PENDING CONSIDERATION

11. Additional Information

View details online:

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

Cabinet Member (Portfolio Holder)

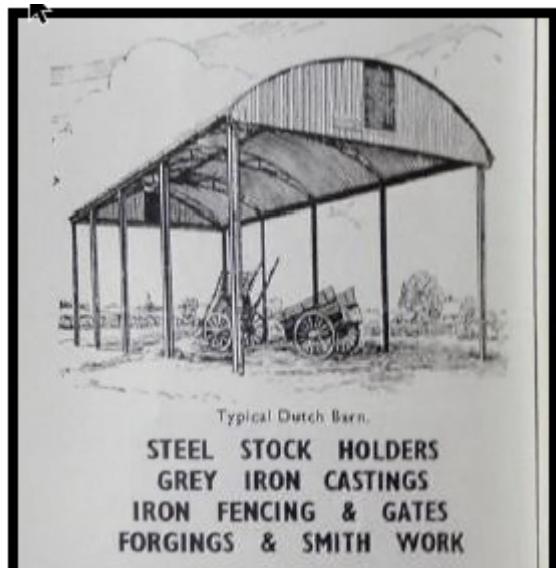
Councillor Gwilym Butler

Local Member

Cllr Gerald Dakin

Appendices

None



it has not been demonstrated that this will not require new structural elements