



Committee and date

South Planning Committee

8 September 2015

Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 14/02958/VAR	<u>Parish:</u>	Worfield
<u>Proposal:</u> Removal of Conditions 10 (restricted use) and 11 (restricted occupancy) attached to 10/03590/COU to allow use of building as permanent residential dwelling		
<u>Site Address:</u> Barn Roughton Bridgnorth Shropshire WV15 5HE		
<u>Applicant:</u> Mr M Davis		
<u>Case Officer:</u> Lynn Parker	<u>email:</u> planningdmse@shropshire.gov.uk	
<u>Grid Ref:</u> 375356 - 294191		
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Recommendation:- Grant Permission subject to the completion of a Section 106 Agreement to secure a financial contribution towards affordable housing and to the conditions set out in Appendix 1.

Contact: Tim Rogers (01743) 258773

REPORT

1.0 THE PROPOSAL

1.1 This application is for the removal of conditions nos. 10 and 11 applied to Planning Permission Ref: 10/03590/COU for the 'change of use of existing building to use as a holiday let property' granted on 9th December 2010.

1.2 The conditions read:-

10. The building shall be used for holiday accommodation only and shall not be used as the sole, primary or permanent residence of any occupier.

Reason: To prevent the establishment of a permanent residential planning unit in an area where new dwellings would not normally be permitted.

11. (a) No person, family or group of persons shall occupy any part of the holiday accommodation hereby approved for a period of more than 4 weeks.

(b) Not less than 4 weeks shall elapse between each period of occupancy by the same person, family or group of persons.

Reason: To ensure that the development approved is not used to establish a permanent residential use.

1.3 This proposal is to allow the use of the holiday let as an open market dwelling. The current use of the building restricted to holiday accommodation has proven unsuccessful in terms of a holiday let business opportunity.

1.4 No internal or external changes are proposed. The existing accommodation comprises a lounge, dining room and kitchen at ground floor level, and 4 bedrooms (one with ensuite) and a bathroom at first floor level.

1.5 During the course of the application, officers requested information be submitted in support of the application to demonstrate that the loss of the holiday let will not have adverse impact on the visitor economy, will meet the criteria for sustainable residential use and to describe its status as a heritage asset. The following documents were submitted in response:

- o Design Summary received 27th August 2014.
- o Historical and Architectural Appraisal by King Partnership dated July 2007.
- o Marketing Report by Carter Jonas dated May – November 2006 which relates to the sale of the property prior to its conversion.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is located in open countryside in the Green Belt.

2.2 The barn is situated on the southern edge of the scattered settlement of Roughton, a rural area of sporadic housing development comprising a number of large houses in extensive grounds and several residential 'barn conversions' distributed along a series of narrow lanes off the south side of the A454 Bridgnorth to Wolverhampton road.

2.3 The application relates to a detached two storey building of square plan and symmetrical, four-sided pyramidal slate roof set back from the south east side of a

narrow lane with a north facing front elevation behind a triangular grass verge frontage and with rear and west side walls within an open grass field.

- 2.4 On the east side, land at a higher ground level associated with a large house, 'Willowbrook', opposite is laid out as a tennis court and garden. Beyond the garden is a range of small scale 'barns' converted into a single dwelling referred to as 'The Courtyard'. Opposite the frontage of the site are the grounds of 'Brook House'.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application is referred to committee for determination on the request of the Local Ward Member in accordance with the criteria for application call in set out in the Council's adopted scheme of delegation.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 Worfield and Rudge Parish Council

Councillors wish to object to this application for removal of Conditions 10 and 11.

4.1.2 SC Affordable Housing (28-07-14)

The removal of an occupancy condition effectively creates a new market dwelling. In accordance with Core Strategy policy CS11, an appropriate contribution will be required towards local needs affordable housing. It should be noted that with a removal of the restricted occupancy condition on holiday accommodation there is no cap of 100sqm and the contribution is calculated on the whole floorspace of the existing property. The prevailing target rate for the application site is 20%. As part of the planning application the applicant should complete and submit an Affordable Housing Proforma.

4.1.3 SC Affordable Housing (18-08-14)

The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and therefore satisfies the provisions of the SPD Type and Affordability of Housing.

4.2 Public Comments

4.2.1 None received

5.0 THE MAIN ISSUES

- Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy; and, if the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other Green Belt harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.
- Affordable Housing Contribution
- Community Infrastructure Levy

6.0 OFFICER APPRAISAL

- 6.1 Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;

and, if the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other Green Belt harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

- 6.1.1 In revisiting this issue firstly it is important to appreciate the planning history of the site and secondly how planning policy has evolved in the intervening years.
- 6.1.2 An application was submitted to Bridgnorth District Council ref. no BR/APP/FUL/03/0957 for the Conversion of the building into a dwelling, installation of a sewage treatment plant and alterations to the existing access. The application was refused on the 3rd February 2004 for the following reasons:
1. The proposed conversion of the barn considered to be of limited historic or architectural interest and located in an isolated position in the open countryside in an area where the disposition of existing dwellings is scattered and sporadic in nature would be contrary to Structure Plan conversions policy and therefore inappropriate development in the Green Belt.
 2. The balcony and balustrade extensions would detract from the basic form and character of the existing building and from the rural character of its surroundings and together with evidence of substantial reconstruction for the purposes of facilitating the proposed conversion to a dwelling would be contrary to the Authority's policies relating the conversion of rural buildings.
 3. The extent of the proposed residential use/domestic curtilage would adversely affect the rural character and appearance of the site and surroundings and the visual amenity of the Green Belt.
- 6.1.3 A second application ref. no. BR/APP/FUL/04/0757 for a similar proposal which addressed the previous outcome was still unsuccessful but reduced the number of reasons for refusal.
- 6.1.4 On the 9th February 2006, planning permission was granted for Change of use of the barn for commercial office/workshop uses and installation of a septic tank, ref. no BR/APP/FUL/05/0924. There is no evidence this consent was implemented.
- 6.1.5 A further application re. no BR/APP/FUL/07/0156 for the Conversion of the building into a dwelling was refused on the 24th April 2007 for the same two reasons as 04/0757. A subsequent appeal was dismissed in October 2007 upholding the Council's decision.
- 6.1.6 In July 2010, an application was made to Shropshire Council for the Change of use of barn to a holiday let, ref. no. 10/02019/FUL. The application was refused as inappropriate development in the Green Belt by reason of inappropriate alterations to the building resulting in domestication of the principle elevation, and excessive curtilage, together with the extent of the driveway and parking spaces was considered to diminish the openness contrary to Green Belt and conversions policies.
- 6.1.7 However, a subsequent application for the Change of Use of existing building to use as a holiday let property was made and it addressed the above issues. The details of the scheme of conversion submitted were subsequently approved on the

9th December 2010 ref. no. 10/03590/COU; it is this consent that forms the basis of this current application.

- 6.1.8 Since this last application was approved in 2010 there have been many changes in the relevant policy framework. The West Midlands Regional Spatial Strategy has been cancelled as have the Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs).
- 6.1.9 In March 2012 the National Planning Policy Framework (NPPF) came into effect and this was followed-up with the introduction of the National Planning Policy Guidance (NPPG) in 2013.
- 6.1.10 One of the core planning principles of the NPPF does state that planning should encourage the re-use of existing resources, including the conversion of existing buildings (paragraph 17). In line with this, the proposal would also see the re-use of an existing building which would be an environmental benefit. The NPPF is also clear that proposals for housing should be considered in the context of the presumption in favour of sustainable development (paragraph 49).
- 6.1.11 Paragraph 89 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt, with certain exceptions. Paragraph 90 goes on to state that certain forms of development are also not inappropriate development in the Green Belt, provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. These include the re-use of buildings provided that the buildings are of permanent and substantial construction.
- 6.1.12 The general thrust of the Council's adopted policies in seeking to restrict new development in the Green Belt as set out in policy CS5. In seeking to limit residential conversions to heritage assets, the Council has provided guidance on what the term 'heritage asset' would normally constitute in the Shropshire Type and Affordability of Housing SPD 2012. This states that such buildings would normally pre-date 1950; comprise of traditional materials and building methods; are of permanent and substantial construction; be of local significance and add value to the landscape. It is considered this building would satisfy these criteria, which are not the higher 'substantial architectural or historic merit' test that applied under Development Plan policies at the time of the appeal in 2007 mentioned at 6.1.5 above. Policy CS5 is largely consistent with the NPPF. However, the Framework does not restrict the re-use of buildings to heritage assets in the Green Belt in the way that local policy does, allowing for the re-use of buildings provided that they are of permanent and substantial construction: Regard and weight has to be attached to the later Framework in this respect.
- 6.1.13 Consideration should also be given to the Government's recent relaxation of permitted development rights with regards to the conversion of 'barns' to dwellings as set out in The Town and Country Planning (General Permitted Development) (England) Order 2015. Whilst this building may no longer benefit from the provisions as set out in this document (in relation to *Class Q - agricultural buildings to dwellinghouses*), the content of the provisions within this document clearly demonstrate the Government's approach to such projects, and this is a material consideration in this case.

- 6.1.14 In terms of the 'emerging' policies, MD7 – Managing Development in the Countryside offers further guidance, on the use of holiday let properties as permanently occupied residential dwellings, requiring the buildings to be of permanent and substantial construction; to have acceptable amenity standards for full time occupation and, where not restricted to affordable use, to preserve the heritage asset.
- 6.1.15 The building, albeit repaired, is sound and capable of being converted without the need for extension or rebuilding. The Council, having granted a consent in 2010 acknowledge the building is suitable for conversion.
- 6.1.16 Having made enquiries of the applicant it appears the scheme granted in 2010, whilst partially implemented has not been completed, and as such the permitted 'use' as a holiday let has not commenced.
- 6.1.17 In theory the removal of the conditions would technically result in the loss of a holiday let unit, however, as that use has never been implemented, this would in affect have an overall neutral effect on the rural economy.
- 6.1.18 Turning now to the impact on the Green belt; the building is extant and this is a material consideration. Furthermore, it is a quasi-residential use in the form of a holiday unit, therefore, there is an acceptance in principle.
- 6.1.19 As part of the negotiations the proposed curtilage associated with the residential use has been reduced to minimise the potential harm on the openness of the designation. It is now considered to be proportionate to the accommodation to be provided.

6.2 AFFORDABLE HOUSING

- 6.2.1 The application will effectively contribute 1 open market house to the County's housing stock, as such there is a requirement for an affordable housing contribution to be made in the form of a payment.
- 6.2.2 The required affordable housing payment proforma has been completed and returned and the submitted information has been considered by the Council's Housing Team. They have confirmed the proforma accompanying the application indicates the correct level of contribution and therefore satisfies the provisions of the SPD Type and Affordability of Housing.
- 6.2.3 The required payment shall be secured through a 106 Agreement.

7.0 CONCLUSION

- 7.1 The property has a long planning history which spans more than a decade. In that time there have been significant changes in planning policy which are reflected in this recommendation.
- 7.2 It is acknowledged that the building is in open countryside and within the Green Belt designation. However, the NPPF and policy CS5 allow for an exception to be made for the creation of new dwellings through the re-use of rural buildings.

- 7.3 It is further acknowledged that policy CS5 of the Core Strategy and MD7 (SAMDev) include criteria that has a stated preference for rural building that are proposed to be converted should be of some merit. That is not to say they should be Listed Buildings, but they should nonetheless be buildings that make a positive contribution to the landscape within which they are set: It is considered that this building makes such a contribution.
- 7.4 The proposed permanent residential use of the accommodation would have no greater impact upon the openness of the Green Belt than the permitted holiday use. The building would have acceptable residential amenity standards for full time occupation.
- 7.5 Furthermore, the Government has recently relaxed permitted development rules with regard to the reuse of agricultural buildings to be converted to dwelling, and this gives a further indication as to the Government's attitude towards such schemes.
- 7.6 Finally, there is evidence that the scheme approved under planning ref. no. 10/03590/COU, whilst commenced, has not been implemented in full, and the building has not been brought into use as a holiday let unit. As a consequence. Its loss in terms of the rural economy and any subsequent wider social and community benefits is neutral.
- 7.7 Having considered all the relevant policies and other material considerations the removal of the conditions to permit an unfettered open market property is considered to be acceptable and approval is recommended subject to the applicant entering into a Section 106 Agreement with the Council to secure the required Affordable Housing contribution.

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 three months 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

9.1 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
National Planning Practice Guidance

LDF Core Strategy Policies:

Policy CS5: Countryside and Green Belt;
Policy CS6: Sustainable Design and Development Principles;
Policy CS9: Infrastructure Contributions
Policy CS11: Type and Affordability of Housing

Bridgnorth District Local Plan 'Saved' Policies:

S1 Development Boundaries
S3 Green Belt
D6 Access and Car Parking

SAMDev 'Emerging' Policies:

MD2 - Sustainable Design
MD6 - Green Belt & Safeguarded Land
MD7 - Managing Development in the Countryside

Supplementary Planning Documents:

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Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

10/02019/FUL - Change of use of existing building to a holiday let unit. Refused 15th July 2010
 BR/APP/FUL/07/0156 - Change of use of redundant agricultural building into a dwelling.
 Refused 24th April 2007. Appeal Dismissed 29th October 2007.
 BR/APP/FUL/06/1029 - Erection of a two storey extension, conservatory, porch, a pitched roof over a previous flat roofed extension and a detached double garage, laundry and store.
 Granted 2nd February 2007
 BR/APP/FUL/06/0739 – Erection of a two storey extension, conservatory, porch, a pitched roof over a previous flat roofed extension and a detached double garage, laundry and store.
 Refused 26th October 2006.
 BR/APP/FUL/05/0924 - Change of use of redundant barn to commercial B1 office/workshop and installation of a septic tank. Granted 9th February 2006
 BR/APP/FUL/04/0757 - Conversion of barn to dwelling, installation of sewage treatment plant and alterations to access. Refused 13th October 2004. Appeal Withdrawn 29th April 2005
 BR/APP/FUL/03/0957 - Conversion of barn to dwelling, installation of sewage treatment plant and alterations to access. Refused 3rd February 2004.
 BR/APP/FUL/01/0286 - Outline application for the erection of one detached dwellinghouse.
 Refused 26th June 2001

11. Additional Information

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

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

Amended Design And Access Statement received on 27th August.

Historical and Architectural Appraisal by King Partnership dated July 2007.

Marketing Report by Carter Jonas dated May – November 2006 which relates to the sale of the property prior to its conversion.

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Michael Wood

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

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 strictly in accordance with the approved plans and drawings

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. Conditions 10 and 11 attached to planning permission 10/03590/COU are hereby removed allowing the property to be occupied as an unfettered open market dwelling.

Reason: The implications of removing the conditions originally imposed in 2010 would not result in a conflict with the current policy framework as set out in the NPPF and the Local Development Framework.

4. Any replacement facing materials shall match in colour, type, size, texture and profile those of the existing building.

Reason: To safeguard the character of the building.

5. No windows or doors shall be installed on the development without details plans and sections at a scale of 1:20 having been first submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason; To protect and enhance the appearance of the building and the area.

6. The window frames and doors of the proposed development shall be constructed of timber, painted white and set back a minimum of 55mm/75mm from the edge of the brickwork around the window opening, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is of a design sympathetic to the locality.

7. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
Means of enclosure
Hard surfacing materials
Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
Planting plans
Written specifications (including cultivation and other operations associated with plant and grass establishment)

Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
Implementation timetables

Reason: To ensure the provision of amenity afforded by appropriate landscape design.

8. All hard and soft landscaping works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

9. No ground clearance, demolition, or construction work shall commence until a scheme has been submitted to and approved in writing by the local planning authority to ensure no damage to any existing trees or hedgerows within or adjoining the site. The submitted scheme shall include the provision of chestnut pale or similar form of protective fencing to BS5837:1991 at least 1.25 metres high securely mounted on timber posts firmly driven into the ground has been erected around each tree/tree group or hedge to be preserved on the site or on immediately adjoining land. The fencing shall be located at least 1.00 metre beyond the line described by the furthest extent of the canopy of each tree/tree group or hedge. The approved scheme shall be retained on site for the duration of the construction works.

Reason: To prevent trees or hedgerows on site from being damaged during building works.

10. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), no extensions, external alterations, outbuildings (including garages, sheds, greenhouses, carports), fences, walls, gates, satellite dishes, flues for heating and cooking appliances, oil and lpg tanks, shall be carried out, erected or installed without the prior written consent of the Local Planning Authority.

Reason: To safeguard the character and setting of the building.

12. This permission does not grant or imply consent for any demolition and rebuilding works, except as may be clearly marked on the approved plans. Any such works found to be necessary shall be first agreed in writing with the Local Planning Authority before any demolition takes place.

Reason: Permission has only been granted for a conversion of the existing building(s) and not for rebuilding works which would be contrary to planning policy.

13. Notwithstanding the details specified in the application documents, details of the access and driveway construction and dimensions and the number and surface treatment of car parking spaces shall be submitted to the Local Planning Authority for approval in writing. The driveway and parking spaces shall be constructed prior to the first occupation of the residential unit and thereafter be maintained in accordance with the approved details.

Reason: In the interests of visual amenity and to ensure that adequate parking facilities are available to serve the development.

14. Any gates provided to close the proposed access shall be set back a minimum distance of 5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

15. 3 Schwegler 2F bat boxes shall be erected on the site prior to the first occupation of the building. The boxes shall be 4m or more above the ground and in non-illuminated areas as advised by a licensed ecologist.

Reason: To enhance the value of the site for bats.

16. 5 artificial nests including 2 Schwegler woodcrete Swallow cups and 3 boxes for small birds such as Schwegler 1FB bid box, 2H robin box, Schwegler bird houses or sparrow terraces (or direct woodcrete equivalents of the above) shall be erected on the site prior to the first occupation of the building. Locations shall be as advised in the manufacturer's guidance or advice should be sought from an experienced ecologist.

Reason: To enhance the value of the site for nesting birds.

Informatives

1. If your application has been submitted electronically to the Council you can view the relevant plans online at www.shropshire.gov.uk. Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.
2. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
3. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.