



Committee and date

Southern Planning Committee

23rd August 2022

Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

<u>Application Number:</u> 22/01833/FUL	<u>Parish:</u>	Abdon And Heath
<u>Proposal:</u> Change of use of land to domestic garden land and erection of a three-bay detached garage with new vehicular access		
<u>Site Address:</u> Cartway Cottage Woodbank Abdon Craven Arms Shropshire		
<u>Applicant:</u> Mr S Graham		
<u>Case Officer:</u> Helen Tipton	<u>email</u>	: helen.tipton@shropshire.gov.uk

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 The application seeks planning permission for a change of use of land to domestic garden land and the erection of a three-bay detached garage with new vehicular access.
- 1.2 The proposed site is outside the curtilage of the associated dwelling and would comprise of a three-bay garage with horizontally mounted, timber boarded walls and a plain clay tile, pitched roof. The three garage doors would consist of timber.
- 1.3 The remaining parcel of land around the garage would be omitted from the curtilage and remain in existing use.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The property is situated in a remote location, on the western slopes of Brown Clee Hill, in the Shropshire Hills Area of Outstanding Natural Beauty (AONB). Access to the property is made along a steep, unmade private track off a minor, rural road. The latter extends between Cockshutford and the Abdon / Upper Earnstrey Park road. The house itself is a traditional, detached stone cottage positioned in a wooded hollow.

The proposed outbuilding would be sited to the north of the dwelling, in a field hollow, which is set below the level of the adjacent driveway / track. Approach to the site would be made via a short section of new driveway, extending from the stretch of existing driveway that leads south west, directly to the house.

The surrounding countryside has a very loose scatter of further dwellings and farm buildings, (including 'Highcroft', one hundred metres to the northeast), but is primarily open pastureland, scrub and moorland, including Clee Liberty common, beyond Cartway Cottage. There are extensive views southwest from the property, down the Corvedale and over the scheduled ancient monument of 'Nurdy Bank' Iron Age hill fort.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1 In accordance with the Council's adopted 'Scheme of Delegation', the application is referred to planning committee because the officer recommendation of approval is contrary to that of the Parish Council. Shropshire Council's Local Member and the Chairman and Vice Chair of its planning regulatory committee also consider that the issues raised warrant the committee's full consideration.

4.0 Community Representations

4.1 Consultee Comments

- 4.1.1 Shropshire Council Ecology - comment.

We have read the submitted Ecological Impact Assessment (Churton Ecology, November 2021) and are happy with the level of survey work. Conditions and informative comments are recommended.

4.1.2 Shropshire Council Highways - no objection.

Shropshire Council, as Highway Authority, has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

4.1.3 Shropshire Council Drainage - comment.

Any permission granted should include an 'informative' encouraging the use of sustainable surface water drainage systems. Information can be found in the Council's SuDS Handbook, which is available in the Related Documents Section on the Council's website at: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

Informative comments are also given in relation to finished floor levels.

4.1.4 Shropshire Hills AONB - comment.

The Shropshire Hills AONB Partnership is a non-statutory consultee and does not have a role to study the detail of all planning applications affecting the AONB. With or without advice from the AONB Partnership, the planning authority has a legal duty to take into account the purposes of the AONB designation in making this decision and should take account of planning policies which protect the AONB and the statutory AONB Management Plan.

Our standard response here does not indicate either an objection or 'no objection' to the current application. The AONB Partnership, in selected cases, may make a further detailed response and take a considered position.

4.1.5 Shropshire Council Rights of Way - no objection.

No comments.

4.1.6 Shropshire Council Trees - comment.

There appears to be only minor direct arboricultural implications from this proposed development, but from a landscape perspective the site is situated high on the slopes of Abdon Hill and falls within the AONB. The Tree Team recommends that in accordance with local policies for good design and the sustainable integration of new development into the wider landscape and green infrastructure networks, the highest possible standards of landscape mitigation and compensation should be secured prior to the determination of this application.

The need for a full application to include details on sustainable landscape mitigation was clearly set out in the pre-application discussions (PREAPP/21/00016 and the withdrawn application 21/02248/FUL).

The details submitted with this application contain very little meaningful detail on landscape mitigation and compensation, other than 19 circles on plan 20187/CM/LP, indicating the potential location of new tree planting. This is very short on details such as species size of stock and planting methods and aftercare, which makes it difficult to interpret the value of the indicative proposal. The Tree team note that Section 5.1 of the Ecological Report (habitats enhancement) the following recommendation is made: 'Native hedgerow planting is recommended along the west boundary of the site. Suggested woody species for hedgerow planting include those typical of the area,' with recommendations for appropriate species to use.

The Tree team maintains that given the location, landscape compensation and mitigation should be secured prior to the determination of the application. If however the Case Officer considers it expedient to grant consent with landscape issues, subject to conditions, then the Tree team recommend a landscaping condition.

4.1.7 Abdon And Heath Parish Council - objection.

The Parish Council appreciate the size has been reduced, and would support a garage within the existing curtilage, however the Parish Council's objections to this application remain:

It will be highly visible from the Nordy Ring and Corvedale.

Remains some distance from the property, making its use/purpose questionable.

New access to be created is very steep, requires trees and shrubs removal, and the site would require large amounts of earth moving/ disruption to the landscape.

Existing curtilage has space to accommodate a garage and one has already been constructed on a historic garage site adjacent to house.

The site has been developed over recent years and unsightly waste spoils remain.

4.2 Public Comments

4.2.1 The application was advertised by way of notice at the site.

4.2.2 No public representations have been received.

5.0 THE MAIN ISSUES

Principle of development

Siting, design and impact on the landscape/historic environment

Residential amenity

Ecology

Drainage

Other matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Additions to existing dwellings are considered acceptable in principle under the 'Type and Affordability of Housing' Supplementary Planning Document (SPD), which supports the Council's Core Strategy Policy CS11. Although this does not refer, specifically, to detached outbuildings, these pose no fundamental policy conflict, provided they are solely for ancillary domestic use. The use, solely for ancillary domestic purposes could be reinforced by condition.
- 6.1.2 The proposed structure and associated hardstanding would also be contained within the red line outlined on the submitted block plan, thus preventing any additional domestic sprawl into the surrounding land.
- 6.2 Siting, design and impact on the 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 areas of outstanding natural beauty and to conserving the significance of designated heritage assets, including any contribution made by their setting.
 - 6.2.2 A similar application at the property, (reference 18/00027/FUL) was refused at committee in September 2019 and dismissed at appeal in March 2020. Although, in that instance, the proposed outbuilding was similar in scale, it was to be sited in a prominent, elevated position a substantial distance from the associated dwelling and was found to be harmful to the character and appearance of the surrounding area and AONB, with no sufficient justification to override these adverse impacts. The planning inspector, however concluded that, given the distance of the formerly proposed development from the Nordy Bank scheduled ancient monument, it would have had no effect on the significance of this designated heritage asset.
 - 6.2.3 The latest application proposes the building to be seated much lower, in a hollow and closer to the dwelling. This would be a substantial improvement to the former scheme and would negate any detrimental impact on the wider landscape and AONB. Given the latest proposed low-lying position of the building, its occupation of land in a corner location and its distance from the Nordy Bank hill fort, there would also be no harmful impact on the monument's setting. Additionally, a landscaping condition could sufficiently mitigate, to further screen the building from any long-distanced or closer public views of the site.
 - 6.2.4 The building would have a simple form and be rustic in nature, harmonising with its leafy surroundings and whilst the footprint of the structure would be large enough to accommodate three bays, there would be some further benefits by providing housing / cover for vehicles and equipment currently left exposed to potential visual intrusion.
- 6.3 Residential amenity
 - 6.3.1 The Council's Core Strategy Policy CS6 seeks to safeguard residential and local amenity. In this case there are no concerns in this regard, given the proposed

building's distance from the nearest neighbouring dwelling and it's low-lying position.

6.4 Ecology

- 6.4.1 The National Planning Policy Framework (NPPF) and the Council's Core Strategy Policy CS17 require the local planning authority to give consideration to the impact of the proposed development on the natural environment. This relates to the impact on statutorily protected species and habitats. The Council's Ecology team have confirmed they are satisfied with the scheme, subject to conditions to provide ecological enhancements for bats, nesting birds and other protected species.

6.5 Drainage

- 6.5.1 Although the actual site of the outbuilding is at risk of surface water flooding, the proposed use of the building would be ancillary and not intended for human habitation. As such, the Council's Drainage team recommend only informative comments in regard to finished floor levels of the building.

6.6 Other matters

- 6.6.1 Concerns over existing spoil at the site and the doubted intention for the building's use are not a material consideration of this application. In terms of the latter, the applicant's representative has confirmed the building would be utilised as a domestic garage and no alternative information is given that could call this use into question.

7.0 CONCLUSION

The proposed development would be acceptable in principle on the basis that it would be solely for ancillary domestic use. The revised low lying siting of the building, along with a landscaping condition to mitigate any visual or biodiversity impacts would ensure its landscape position is satisfactory, with no harmful effect on the Nurdy Bank hill fort. The design of the building would also be suitable and there are no overriding concerns in terms of neighbours living conditions, wildlife species and their habitat, drainage or other matters. As such, the application is recommended for approval, subject to conditions.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD2 - Sustainable Design

MD12 - Natural Environment

MD13 - Historic Environment

SPD 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 GRANT 6th September 2010

11/00382/DIS Discharge of Condition No.5 (Protected Species) attached to Planning Permission 10/03099/FUL DISAPP 13th May 2011

11/00429/DIS Discharge of Condition No.5 (Bats) attached to Planning Permission Ref: 10/03099 for the erection of extensions to dwelling incorporating existing attached outbuildings; formation of new vehicular access NPW 24th February 2011

11/00610/AMP Proposed Non-Material amendment to previously approved Planning Permission Ref: 10/03099 to amend plan/elevations of kitchen/dining area; rebuild rear extension due to foundations insufficient and reposition windows to south elevation for the erection of extensions to dwelling incorporating existing attached outbuildings; formation of new vehicular access GRAMP 12th April 2011

11/02954/AMP Application for a non-material amendment to PP 10/03099/FUL approved on 03/09/2010 to re-instate existing window opening and apply rendered finish to exterior wall of north elevation GRANT 6th July 2011

14/04985/FUL Conversion and extension of existing attached outbuilding to form ancillary accommodation to dwelling GRANT 5th March 2015

18/00027/FUL Erection of detached garage and formation of turning area REFUSE 30th September 2019

21/02248/FUL Erection of a three bay detached garage to include change of use of land to domestic curtilage WDN 5th August 2021

Appeal

19/02787/REF Erection of detached garage and formation of turning area DISMIS 3rd March 2020

11. Additional Information

[View details online:](#)

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=RAAIFETDN2M00>

List of Background Papers
Cabinet Member (Portfolio Holder) Councillor Ed Potter
Local Member Cllr Cecilia Motley
Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. The site shall be landscaped as outlined in blue on the approved block plan. No development shall take place, including demolition, ground works and vegetation clearance until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

Precise details of native hedgerow planting along the western boundary of the site and bracken control, as set out in section 5.2.1 of the Ecological Impact Assessment (Churton Ecology, November 2021);

Details/schedules of proposed planting / soft landscaping;

Precise details / samples of hard surfacing materials;

Precise details of any walls, fences and other boundary treatments/means of enclosure;

Timetables for implementation.

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 safeguard the visual amenities of the Shropshire Hills Area of Outstanding Natural Beauty and in the interests of biodiversity.

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

4. Prior to first occupation / use of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 3 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 1 artificial nest, of either integrated brick design or external box design, suitable for tit species (standard box design, 26mm hole).

- A minimum of 1 artificial nest, of either integrated brick design or external box design, suitable for tit species (standard box design, 32mm hole).

- A minimum of 1 artificial nest, of either integrated brick design or external box design, suitable for robins and blackbirds (open-front box).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities for bats and birds.

5. 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.

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

6. Prior to the installation of any external lighting in connection with the development hereby approved, a detailed lighting scheme shall first be submitted to and approved in writing by the local planning authority, which takes into account the guidance contained in the Bat Conservation Trust's Guidance Note 08/18 'Bats and artificial lighting in the UK'.

The lighting shall be installed strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To minimise disturbance to bats.

7. The development shall only be used for purposes in connection with and ancillary to the occupation of the existing dwelling, (known as Cartway Cottage), on the site 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.

Informatives

1. The applicant should ensure that the finished floor level is set above any known flood level or at least 300mm above the existing ground level.

2. 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.

3. Surface water run-off should be intercepted and disposed of appropriately. It is not permissible for surface water from the development to drain onto the public highway or into highway drains.

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

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

All vegetation clearance, tree removal and/or scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. No clearance works can take place within 5m of an active nest.

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

5. Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade.

Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

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

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

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

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

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

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

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

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

6. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.