

Delegated Report

Planning Ref: 24/00029/FUL

Applicant: R G Rutter

Ward: Newbold Verdon With Desford & Peckleton

Site: New Parks Farm Stapleton Lane Kirkby Mallory



Hinckley & Bosworth
Borough Council

Proposal: Conversion of agricultural barns into two dwellings

1. Recommendations

- 1.1. **Refuse planning permission** for the reasons outlined at the end of this report.

2. Planning application description

- 2.1. The application seeks full planning permission for the conversion of two former agricultural buildings to two dwellings (1 x 3 bed and 1 x 2 bed) with relevant external changes proposed including new windows, doors and roof lights and a new entrance gate. Minor extensions to the building are proposed including a carport to the front.
- 2.2. The application is a resubmission of application 21/01263/FUL, however an updated bat survey has not been provided upon request.

3. Description of the site and surrounding area

- 3.1. The application site comprises of two brick and tile outbuildings, which are now redundant but were previously used for occasional storage associated with the farmstead. The two barns are constructed on an 'L' shaped footprint. The farmhouse is located to the south west of the buildings.
- 3.2. The application site is outside the settlement boundary of Kirkby Mallory and is therefore situated within the countryside. The area is rural in nature with large rural buildings to the north, east and south. Mallory Park racetrack is located to the east of the site.

4. Relevant planning history

17/00224/FUL

- Conversion of barns into two dwellings
- Permitted
- 03.05.2018

20/01365/FUL

- Conversion of barns into two dwellings (renewal of 17/00224/FUL)
- Refused
- 15.07.2021

21/01263/FUL

- Conversion of agricultural barns into two dwellings
- Permitted
- 19.01.2022

22/00227/P3CQ

- Conversion of existing agricultural building into 2no. self-contained dwellings
- Prior Approval Granted
- 03.05.2022

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site. No comments have been received as a result of the publicity.

6. Consultation

- 6.1. No objection has been received from:

- HBBC Environmental Services- Drainage
- HBBC Environmental Services- Pollution (subject to conditions)
- HBBC Waste- Streetscene Services (subject to conditions)
- LCC Highways

- 6.2. No response has been received from Peckleton Parish Council

- 6.3. LCC Ecology – objection:

The bat survey submitted with the application is from 2021, which confirms the presence of common pipistrelle bat roosts. This is now considered outdated and an update is required as bats are highly mobile and may have changed the way they are utilising the site (for example if a higher conservation value roost is now present). I have attached the guidance for the lifespan of reports. A licence from Natural England is unlikely to be granted without surveys from the most recent survey season.

Therefore I recommend that the application is delayed until the updated bat survey (and any further surveys required) are carried out.

7. Policy

- 7.1. Core Strategy (2009)

- Policy 13: Rural Hamlets
- Policy 19: Green Space and Play Provision

- 7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM15: Redundant Rural Buildings
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

- 7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

7.4. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)

8. **Appraisal**

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety and parking
- Drainage
- Ecology

Assessment against strategic planning policies

- 8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) (2023) identifies that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3 The development plan in this instance consists of the Core Strategy (2009) and the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4 The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. Policy 13 of the Core Strategy identifies Kirkby Mallory as a Rural Hamlet. Rural Hamlets are considered the least sustainable of settlements and have limited, if any services and generally rely on Key Rural Centres or surrounding urban areas for schooling, employment and the provision of goods and services. Due to this, Policy 13 supports residential development within the settlement boundary of Kirkby Mallory only, usually in the form of infill housing.
- 8.5 Notwithstanding the fact that the LPA is now able to demonstrate a 5.6-year housing land supply, the housing policies are considered to be out-of-date and therefore paragraph 11(d) of the NPPF is triggered and permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is a material consideration to weigh in the context of the statutory requirement to determine applications and appeals in accordance with the Development Plan unless considerations indicate otherwise. The tilted balance of Paragraph 11(d) of the NPPF is engaged, irrespective of the housing land supply figure, which is a product of the age of the plan and the out-of-date evidence base it relies upon.

- 8.6 This is weighed in the balance of the merits of the application when considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework (as confirmed by recent appeal decisions). Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.7 The site lies outside of the settlement boundary for Kirkby Mallory. It is therefore classed as being on land designated as countryside. Policy DM4 of the SADMP is therefore applicable. Policy DM4 states that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
- a) It is for outdoor sport of recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - d) It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
 - e) It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation.
- and
- i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - ii) It does not undermine the physical and perceived separation and open character between settlements; and
 - iii) It does not create or exacerbate ribbon development;
- 8.8 As the proposal is for the conversion of redundant rural buildings, the proposal would result in the re-use of these buildings therefore in compliance with policy DM4 of the SADMP. Consideration of its impact upon character of the countryside is made later in the report.
- 8.9 Paragraph 84 of the NPPF (2023) states that planning policies and decisions should avoid the development of isolated homes in the countryside unless certain circumstances apply, such as that described in sub paragraph (c) where the development would re-use redundant or disused buildings and enhance its immediate setting.
- 8.10 In addition, Policy DM15 of the adopted SADMP states that proposed development outside the settlement boundary for the re-use and/or adaptation of redundant or disused rural buildings will be supported where:
- a) The applicant demonstrates the building is no longer viable in its current use; and
 - b) The applicant has adequately demonstrated the building is in a structurally sound condition and is capable of conversion without significant rebuild or alteration; and
 - c) Any proposed extension(s) or alterations are proportionate to the size, scale, mass and footprint of the original building and situated within the original curtilage; and
 - d) The proposed development accords with Policy DM10: Development and Design and relevant design guidance.

- 8.11 It is considered the buildings are no longer viable for agricultural use. However, the Structural Survey outlines that the building is of a condition which is capable of conversion despite some damage to the roof and brickwork. As with the previous approvals, it is therefore considered that the proposal would be acceptable in principle and be in accordance with Policies DM4 and DM15 of the SADMP, subject to further assessment below of its potential impact upon the intrinsic value, beauty, open character and landscape character of the countryside.

Design and impact upon the character of the area

- 8.12 Policy DM4 of the adopted SADMP states that Development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and it does not undermine the physical and perceived separation and open character between settlements; and it does not create or exacerbate ribbon development.
- 8.13 Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.14 Policy DM15 of the adopted SADMP also seeks to ensure any extensions or alterations respect the form and character of the existing building(s), are situated within the original curtilage and that the development leads to an enhancement of the immediate setting.
- 8.15 The Good Design Guide SPD outlines that agricultural buildings were designed for a specific purpose. When converting agricultural buildings it is of paramount importance that the building does not become too domesticated. This includes avoiding superfluous extensions and alterations, and retaining features where possible.
- 8.16 This application is for the conversion of existing brick and tile agricultural 'L' shaped buildings, of a traditional appearance, which are no longer fit for agricultural purpose. During the course of the life of the agricultural buildings, alterations have been carried out.
- 8.17 Building 1 as identified in the submitted building condition survey is the larger of the two, situated on the east side of the farmstead. Elements of Building 1 are two-storey in scale and would be utilised in the proposed conversion. Building 1 has small block work additions to both its north facing elevation and east facing elevation. Building 2 as identified in the submitted building condition survey is entirely single storey located along the western boundary of the application site.
- 8.18 Minimal protrusions are proposed along existing facades with existing openings being used where appropriate. The Good Design Guide SPD states that in the first instance, existing openings should be retained. There are minimal additional openings proposed. The extensions proposed including the carport are modest with an open natured design and all built within the existing plan form of the barns with the roof comprising natural slate in keeping with the rest of the building. Other additions proposed largely utilise existing walls to the existing barns, making them more robust therefore the design utilises an opportunity to improve and thus enhance the appearance of the barns. The existing block work additions incorporated into the conversion are proposed to be clad in timber cladding, a common material used in rural buildings.

- 8.19 The roof line across Buildings 1 and 2 would be kept largely as an unbroken roof profile, with only minimal additions in the form of roof lights to allow light to penetrate into the building and removing the need for additional openings within the elevation. These additions are not considered to adversely impact upon the fabric of the building particularly given roof lights are already a feature of Building 1. On Building 2 they are kept to a minimum on the east elevation only, facing into the courtyard and thus not outward to the surrounding countryside landscape.
- 8.20 It is considered necessary that should permission be granted a condition to remove permitted development rights be imposed to ensure additional alterations and extensions are not undertaken without consent. This measure would be in the interests of preserving the character and appearance of the building and surrounding rural landscape.
- 8.21 The existing courtyard area would be retained and used for private garden space. A fence is proposed down the middle of the courtyard to provide separate gardens for both plots. No details of the fencing are provided however it would be appropriate to attach a condition to any consent granted giving details of boundary treatment and landscaping proposed as part of the scheme.
- 8.22 The proposed scheme would retain and secure the long-term future of the agricultural buildings, providing a sustainable and viable use which would reflect the historic integrity of the buildings, enhancing the existing traditional structures. The proposal would therefore have a minimal visual impact on the site and the wider rural area is therefore considered to be in accordance with Policies DM4, DM10 and DM15 of the SADMP and the Good Design Guide SPD.

Impact upon neighbouring residential amenity

- 8.23 Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and/or amenity of nearby residents and occupiers of adjacent buildings and that the amenity of the future occupiers of proposed development would not be adversely affected by activities in the vicinity of the site.
- 8.24 The proposal is located to the north east of the existing farmhouse. All alterations to the proposal and access area are set away from the principal windows to this house. It is considered that the domestic use established by the proposed conversion scheme would not result in any noise or disturbance impacts over and above those that would be experienced if the use of the barns for farming purposes were to be restarted.
- 8.25 The existing courtyard established by the formation of the buildings would provide the future occupiers of the proposed dwellings with ample amenity space in accordance the Good Design Guide SPD. A suitable boundary treatment would ensure minimal overlooking between the principal windows to both plots.
- 8.26 The proposed development is situated in close proximity to an existing vehicle racetrack, at Mallory Park. The racetrack has been subject to a number of noise abatement notices, which has resulted in some mitigation measures being put into place at the circuit. Although over more recent years complaints have been declined due to these measures, the proposed development could be impacted by noise on race days, which would adversely affect the residential amenity of any future occupants. It is therefore considered necessary to impose a condition which seeks a noise mitigation scheme prior to commencement of development should planning permission be granted, as per the recommendations of the HBBC Pollution Officer.

This is in addition to a land contamination condition which is required given the historic use of the buildings.

- 8.27 Overall and subject to conditions the proposal would not result in a significant impact on residential amenity for existing and future occupiers in compliance with policy DM10 of the SADMP.

Impact upon highway safety and parking

- 8.28 Policy DM17 of the adopted SADMP supports development that seeks to ensure convenient and safe access and that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision.
- 8.29 Paragraph 111 of the NPPF (2021) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 8.30 The site is on an unadopted, unclassified road with low levels of vehicular traffic. It is not expected the proposal will result in significantly high levels of traffic, when considering the farm traffic that can use the road with the present lawful use of the site. The proposed development would provide two parking spaces per dwelling, which is acceptable with space for other parking and also suitable turning space on site. The Local Highway Authority do not raise an objection to the proposal.
- 8.31 The proposal will result in a minimal impact on parking and highway safety in compliance with policies DM17 and DM18 of the SADMP.

Ecology

- 8.32 Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation. Paragraph 180 of the Framework states that planning policies and decisions should contribute and enhance the local natural environment by protecting and enhancing sites of biodiversity. According to the Good Design Guide, it is essential to consider the impact of conversion work upon wildlife, particularly in relation to protected species. Their protection is a material consideration in the planning process.
- 8.33 The applicant has submitted the bat survey submitted which is from the previously approved application in 2021, which confirms the presence of common pipistrelle bat roosts. This is now considered out of date, and an update is required as bats are highly mobile and may have changed the way they are utilising the site (for example if a higher conservation value roost is now present).
- 8.34 A revised bat survey was requested by the LPA on 29.01.24, and chased on 21.02.24, with an extension of time agreed until 28.06.24. Further chase-up emails were sent by the LPA on 15.05.24, 12.06.24, however no response was received. Ultimately the agent was given a deadline to respond to and advised that if no response was received the LPA would have to refuse consent but no response was received.
- 8.35 The proposal therefore fails to demonstrate that it would not result in harm to protected species, and therefore fails to comply with Policy DM6 of the SADMP and Paragraph 180 of the Framework.

Other matters

- 8.36 The site located within flood zone 1 indicating a low risk of flooding. The Borough Councils Drainage Officer raises no objection to the proposal subject to informatives for the suitability of the ground strata for infiltration and any hardstanding areas to be permeable.
- 8.37 The collection point for domestic recycling, garden waste and refuse is from the adopted highway boundary. Consideration will need to be given to providing an adequate collection point at the highway boundary. It will be the responsibility of the occupiers that containers or wheelie bins are brought to the collection point.

9. Equality implications

- 9.1 **Where No Known Implications** Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.

10. Conclusion and Planning Balance

- 10.1. The development proposed in the current application would have some economic benefits from the construction of the development, albeit for a temporary period, and ongoing support to local services from future occupiers.
- 10.2. Weighed against the Government's commitment to significantly boosting the supply of housing through the NPPF (2023), the proposal for two market dwellings would offer only limited social benefit and would not significantly boost the supply of housing in the Borough.
- 10.3. Both the social and economic benefits would be small scale and therefore limited weight is attached to these considerations.
- 10.4. The application provides unsatisfactory information demonstrating that the proposed development would not result in significant harm to protected species. Applying Paragraph 11 (d) (ii), there are therefore no material considerations that would collectively or significantly outweigh this environmental harm to protected species identified. The proposal would therefore be contrary to Policy DM6 of the SADMP and paragraph 180 of the Framework. Collectively, and among other things, these policies seek to avoid harm or loss to biodiversity.

11. Recommendation

- 11.1 **Refuse planning permission** subject to the reasons at the end of this report.
- 11.2 **Reasons**

1. Insufficient information has been submitted to demonstrate that the proposed development would not result in harm to protected species. The proposal is therefore in conflict with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 180 of the National Planning Policy Framework (2023).