

Report to	Planning Committee
Date	12 April 2018
By	Director of Planning
Local Authority	SDNPA (Called In Application)
Application Number	SDNP/17/00554/FUL & SDNP17/00595/LIS
Applicant	Mr B Camping
Application	Proposed Conversion of Tithe Barn, Monks Walk and the Garage building to form 5 dwellings (net increase of 4 units).
Address	Manor House, North Lane, Buriton, Petersfield, Hampshire, GU31 5RT

Recommendation:

- 1. That planning permission SDNP/17/00554/FUL be refused for the reasons set out in paragraph 10.1 of this report.**
 - 2. That listed building consent SDNP/17/00595/LIS be refused for the reasons set out in paragraph 10.2 of this report.**
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Executive Summary

Buriton Manor comprises a variety of listed and unlisted buildings to the south east edge of the village of Buriton within the Conservation Area. The Manor house itself and the outbuildings on the western side of the courtyard were disposed of separately from the buildings the subject of the current applications, along with much of the courtyard. The applications under consideration relate to the residential conversion of the Grade II listed 'Tithe Barn', the attached 'garage block' and an adjacent building known as 'Monks Walk' to provide five residential dwellings (A net increase in 4 units as Monks Walk already in a lawful residential use). Also under consideration is an application for listed building consent in respect of the works required to facilitate the conversion of the Grade II listed Tithe Barn and the curtilage listed garage block and Monks Walk.

The South Downs National Park Authority granted planning permission and listed building consent for the above applications on 8 August 2017 following a resolution of the Planning Committee on 13 April 2017. However the decisions of the Planning Committee were subject to a legal challenge through judicial review proceedings by the Claimant (B2C3 Ltd). Upon further review, the South Downs National Park Authority (SDNPA) confirmed that it would not be defending the claim made against it by the Claimant. The reason was that SDNPA believed that one of the grounds would be successful, the particular ground relating to the consideration of the offer made by a third party to purchase the Tithe Barn for use ancillary to the residential use of the Manor House. On 19 December 2018 David Elvin QC quashed the planning permission and the listed building consent. This report reconsiders the applications in light of further evidence and submissions from both the applicant and third parties. The High Court Decision is attached to this report as **Appendix I**.

An alternative business proposal has been submitted to South Downs National Park Authority by a local company B2C3 Ltd, setting out a proposed community use of the Tithe Barn. Officers are mindful of more obvious public benefits associated with such a use for events and community use,

however the submitted business plan is not considered to be supported by sufficient marketing to demonstrate that there is sufficient need, or that the submitted financial schedule is realistic.

Officers still accept that the proposed residential use would provide future security of the listed building's maintenance although with this security there would be a degree of harm to the interior and exterior of the building, albeit amounting to less than substantial harm. Further to this, correspondence between the Local Planning Authority and the owners of the Manor has left doubt as to whether there is a realistic prospect – in the longer term - that the owners would be willing to purchase the Tithe Barn for use ancillary to the Manor House and whether the sale of the Tithe Barn for this use has been adequately explored by the applicant. This is considered to be material to the Authority's determination because such a use would be less harmful to the significance of the listed building and has been endorsed by Historic England as the optimum viable use of Tithe Barn. The prospect of that use being a genuinely viable use is substantiated by a previous offer from the owners of the Manor to purchase it on that basis, and their apparent continuing willingness to do so until very recently. The Local Planning Authority has written to the applicant requesting further detail of their position and further detail of the marketing of the barn for an ancillary use, however insufficient information has been provided to satisfy Officers that ancillary residential use is not viable in the long term.

Therefore the proposal for a private residential use of the Tithe Barn has not been proven to represent the optimal viable use of the heritage asset, failing to justify the less than substantial harm to the historic fabric of the building. The proposal is therefore concluded to be contrary to policies in the development plan, the requirements of the National Planning Policy Framework (specifically paragraphs 132, 134 and 115), and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Further ecological survey work is also required in update of the previous 2014 and 2016 ecological reports, in order to determine the presence of protected species and whether the proposal can be accepted. Finally, in the absence of a Section 106 agreement securing the relinquishment of the extant D2 use of the Tithe Barn, the partial conversion of buildings and retention of the use as a wedding and function venue would result in an unacceptable degree of vehicular activity through the existing Community Car Park which would result in a danger to users of this and the adjacent highway.

I. Site Description

- I.1 The Buriton Manor site comprises a collection of buildings set in grounds on the south-east perimeter of Buriton village. The central part of the site comprises a courtyard. To the north of the courtyard is the Manor House, grade II* listed. The Manor House was built in two sections: one 16th /17th Century timber framed element and a newer 18th Century brick element. The property is a residential dwelling and in separate ownership to the buildings subject of the application under consideration. To the south of the manor house is an enclosed courtyard accessed from the public highway in its south west corner, between the Tithe Barn and Manor Lodge. This access is not in the same ownership as the application site. A site Local Plan is available to view as **Appendix 2**.
- I.2 To the west of the courtyard are a group of dwellings referred to as Orangery Cottages. These buildings were the former coach house, dairy and stable block and has been converted into four dwellings being from north to south, Dairy Cottage, 2 Old Stable Cottage, 1 Old Stable Cottage and Manor Lodge. To the east of the courtyard is a single storey building which is grade II listed. These buildings, along with most of the courtyard, are in separate ownership from the application site.
- I.3 The Tithe Barn which is grade II listed is situated on the south side of the courtyard and an area of courtyard in front of the building has been retained in the same ownership. The barn is a brick and stone building with stone flagged floor and exposed timber frame roof. Until the license was revoked by the East Hampshire Council in April 2016 the Tithe Barn was utilised as a function venue, mainly for weddings. The barn did contain kitchens at its eastern end along with a garage/store room.
- I.4 Immediately to the south of the Tithe Barn is St Mary's church and churchyard, dating from the 12th century. The church is a grade II* listed building. To the south-east of the courtyard

and south-east of the tithe barn are further buildings which are the subject of the applications under consideration, commonly known as the 'garage block' and 'Monks Walk'. Both the garage block and Monks Walk are curtilage listed as they are within the historic curtilage of the Manor House and Tithe Barn.

- 1.5 The garage block is largely roofed with suspected asbestos roof tiles whilst the southern section is roofed with slate tiles. It is an open fronted Barn and two Stables with a concrete apron. The date of construction of the building is unknown but it appears on the 1870 OS map and Tithe Map. The external walls to the west form the boundary with the churchyard and are constructed from masonry/malstone. The southern and northern external walls are also masonry with garage doors on the north elevation. Although unlisted the timber garages are a pleasant presence on the site and make what is considered to be a positive contribution to the setting of the listed buildings and Conservation Area.
- 1.6 To the east of the garage block is a single dwelling known as Monks Walk; originally constructed as an agricultural building in 1909. The building was previously used as stables and planning permission was first granted to utilise part of the building as groom's accommodation (1984) and then to convert the building into a dwelling (1995). Monks Walk comprises a large dwelling of at least four bedrooms, over the ground floor and within the roof. During a February site visit, internal works to convert the building were underway, and a single rooflight had been installed into the eastern roof slope. There is a lawned area to the east of the dwelling which is located outside of the settlement boundary.
- 1.7 Beyond an area of hard-standing and east of Monks Walk is an area of lawn beyond which to the east is a single storey residential property known as Old Spot Cottage, this is not included in the application site but is in the same ownership and was converted from an agricultural building in the nineties.
- 1.8 All the buildings the subject of the applications under consideration lie within the settlement boundary of Buriton, though the southern access lies beyond that boundary. The village Conservation Area follows the settlement boundary to the east of application site and extends beyond the settlement boundary to the south of the site. Old Spot Cottage is outside of the Conservation Area.
- 1.9 A public right of way runs through the pond community car park, along the access and then divides to run south climbing Buriton Hanger and east along the southern boundary of the site. Clear views of the site can be obtained.

2. Relevant Planning History

- 2.1 Given the complex history and number of applications relevant to the site, a full planning history is attached as **Appendix 2** of this report.
- 2.2 The South Downs National Park Authority Planning Committee granted planning permission and listed building consent for the above applications on 8 August 2017. The decisions of the Planning Committee were subject to a legal challenge through judicial review proceedings by the Claimant (B2C3 Ltd).
- 2.3 Upon further review, the South Downs National Park Authority (SDNPA) confirmed that it would not be defending the claim made against it by the Claimant. The reason was that SDNPA believed that one of the grounds would be successful. The particular ground related to how much weight the Authority's consideration of the offer made by a third party to purchase the Tithe Barn for use ancillary to the residential use of the Manor House.
- 2.4 On 19 December 2018 David Elvin QC quashed the planning permission and the listed building consent.

3. Proposal

Procedural note

- 3.1 As per the scheme put before Members of the Planning Committee on 13 April 2017, the applications under consideration relate to the conversion of existing former agricultural buildings to provide 5 dwellings (a net increase of 4). The buildings concerned are the Grade II listed 'Tithe Barn' to be converted into one unit, an existing residential conversion of

Monks Walk to form three units and the conversion of an open fronted barn, commonly referred to as the 'garages' into a single residential unit.

- 3.2 The previous resolution to grant planning permission and listed building consent is a material consideration in the redetermination of the applications, although this resolution does not bind Members to arrive at the same outcome. Officers and Members are required to reconsider the applications in their entirety, having regard to all up-to-date information, third party representations as well as changes in planning policy documents since the grant of planning permission and listed building consent in 2017.

Tithe Barn

- 3.3 As per the previous applications, the latest proposal seeks planning permission and listed building consent to convert the barn to a single dwelling with the insertion of a partial mezzanine, together with internal upgrading and ventilation. A large part of the interior would be left open to the roof timbers and roof light insertions or chimneys are omitted in order to reduce the visual impact externally. Existing window openings are to be utilised and new windows introduced into a number of brick-blocked window openings.
- 3.4 Planning permission is required for an area of garden to be provided to the east adjacent to Monks Walk. Parking would be provided to the front of the Tithe Barn at each corner of the building.
- 3.5 The applicant has advised that if granted planning permission the current lawful D2 use would cease with the rights to that permission relinquished through an appropriate Section 106 agreement, as was the case following the 2017 decisions. The barns have remained in disuse since April 2017, notably due to the loss of a license for some elements of the lawful use of the Tithe Barn such as weddings.

Monks Walk

- 3.6 Planning permission and listed building consent are required for the proposed conversion of Monks Walk into three residential units. This former stable building was granted permission for a residential conversion to one dwelling in the nineties and the current application proposes its subdivision to provide 3 dwellings, with gardens provided for each property to the east of the building. The scheme remains the same as was proposed in application SDNP/16/04494/FUL (which was refused by the Planning Committee on 19 January 2017).
- 3.7 The proposed dwellings will front onto a concrete yard and are opposite to the open fronted 'garages' which itself is proposed for conversion to one residential unit. As Monks Walk pre-dates 1948 and is within the historic curtilage of listed buildings Listed Building Consent is required for the proposed conversion works.
- 3.8 The conversion is achieved within the existing fabric of the building and no extensions are proposed; the conversion relying on the internal rearrangement of internal walls at ground level and in the roof to create two floors of accommodation. Further internal works have been carried out since the determination of the applications in April of last year, consisting of internal studwork, plastering and decorating. The site has been subject to enforcement investigation including formal notice to the applicant to cease all work.
- 3.9 First floor accommodation is proposed to be served by a total of 16 roof lights, evenly distributed across both elevations of the main roof. Members are advised that these details of the conversion were previously considered acceptable by the Planning inspector who considered that appeal (with the scheme being dismissed for issues relating to vehicular activity, landscape impact and noise pollution).
- 3.10 Fenestration and door arrangements are also altered on the ground floor level albeit utilising existing openings where possible and minor external alterations overall. A steel chimney is removed and smaller black wood burner flues are to be installed. A Juliet balcony rail is proposed beyond an existing door in the central gable at first floor level.

The Garages

- 3.11 Planning permission and listed building consent are required for the proposed conversion of this open fronted barn, which is constructed from a mix of sandstone block, brick walls and

a timber frame supporting a roof of natural and artificial slates. Given the relatively low right height, it is proposed to provide a single storey residential unit incorporating a garage for the parking of one vehicle.

- 3.12 The building was known to have been used as a car port and for storage in recent years, although it has remained redundant since the determination of the applications last year. There is evidence of some deterioration of the roof with a number of slate roof tiles slipping. However the building is not thought to be structurally compromised to the extent that any further structural survey or report would be required.
- 3.13 The building was the subject of a proposal for conversion to two dwellings under the refused application reference number SDNP/14/03321/FUL. The principle of the conversion of this building was considered generally acceptable by the Inspector. The concern in that instance was that the conversion of this building would result in an unsatisfactory relationship with the Tithe Barn which at that time was being retained as a venue with associated noise and disturbance. Under the current proposal the Tithe Barn is to be converted to a single dwelling and would cease to be used as a venue.

Landscaping, Parking and Access

- 3.14 Planning permission is required for a scheme of landscaping which indicates areas for vehicular parking. Access to the proposed dwellings in Monks Walk and the open fronted barn is from North Lane via the pond car park and an existing driveway to the south of the churchyard, which is also a public footpath. This has been subject to previous discussion by the Planning Committee and is a key point of concern amongst a number of local residents as well as the Buriton Parish Council. It is also proposed to close off any vehicular access through to the courtyard in front of the Manor House as indicated on the proposed Landscape Masterplan. Two parking spaces associated with the Tithe Barn would be located in the Manor House courtyard, with access from North Lane. This involves crossing land outside the application site not in the applicant's ownership although there is already a permitted right of access to the building over this area including to the area to be allocated for parking. If the development is found to be acceptable in all other respects, the parking spaces would be required and delivered by condition in these two locations, unless otherwise to be agreed in writing by the Local Planning Authority.
- 3.15 A total of 10 parking spaces together with a single garage are provided in accordance EHDC Parking Standards, which refer to the "Hampshire Parking Strategy and Standards 2002". These parking spaces are located adjacent to each of the proposed dwellings.
- 3.16 The Transport Statement refers to refuse collection for the residential dwellings continuing from the collection point at the northern site access with a further plan submitted showing refuse storage adjacent to parking spaces between Monks Walk and the Garages.

Additional Information provided

- 3.17 The applicant has submitted additional information in December 2017 to be considered against both the planning and listed building consent applications. The additional plans seek to reduce the number of pre-commencement details required relating to the conversion of Monks Walk should the application receive permission. The submitted documents include a letter requesting specific amendments to the wording of conditions, as well as the following details (Monks Walk only):
- Construction Environmental Management Plan (CEMP);
 - Door and window details;
 - Brick hearth details;
 - External finishes;
 - Roof light and blackout blind design; and
 - Flue and vent details

4. Consultations

The following list comprises consultation responses received following further notification after planning permission and listed building consent were quashed. Details of consultation

responses previously received are listed under Section 4 of the 13 April 2017 committee report, and the updates sheet listed as **Appendix 3**.

4.1 **Buriton Parish Council: Objection.**

- The Parish Council's previous comments still stand.
- The Buriton Village Design Statement has been endorsed by South Downs National Park Authority and must be considered against the applications.
- Policies in the emerging South Downs Local Plan must be considered.
- Historic England's objection to residential conversion are noted.
- It is understood that the owners of the Manor House still wish to acquire the barn and use it ancillary to the Manor.
- An option also stands for B2C3 to purchase the barn and use it for events.
- Concern regarding existing sewerage provision.
- No access for water pipes or services.
- Concern regarding construction traffic through the community car park.
- New local plan policy SD8 must be considered in light of glazing and roof lights.
- Parts of the site are outside of the Buriton settlement boundary (existing and proposed).
- Clarity is needed regarding other areas outside of red line but within blue line.

4.2 **SDNPA Historic Buildings Officer: Objection.**

- Comments on the historic significance of this site have been recorded many times before and are reflected in the draft committee report at **Appendix 3**. Therefore that information is not repeated in this response.
- The primary point covered in this response is the optimal viable use of the Manor Barn.
- The original use of the building, lasting from the Eighteenth Century well into the Twentieth, was agricultural. However, this function ceased a considerable time ago and there is no current connection to a local agricultural enterprise, so may now be discounted.
- In recent years the barn has been used for functions and weddings. It is considered that this use was benign for the building as it provided a steady income, sufficient to sustain the maintenance and repair of a substantial structure, preserved the spatial quality of the interior unimpeded by subdivisions and allowed its ready appreciation by anyone renting the facility.
- Civil and licencing Impediments to this use arose, not strictly relevant to this application in that they relate directly to other concerns. These impediments would not seem incapable of resolution in the event of changing circumstances over time, though in the event effective alterations to improve the acoustic performance of the building were required some change to internal and external appearance would certainly be implied. These changes would be significant and costly and might reasonably be expected to result in 'less than substantial harm' to the designated asset. Their high cost might also imply a risk to the on-going viability of the events use. Therefore, it must not be assumed that continuation of this use is entirely risk-free to the character of the building in the future.
- The submitted proposal by B2C3 offers potential to continue events uses within the building and offers the added benefit of facilitating public and community access to the space. The sums allocated for initial set-up do not seem generous given the sheer size of this building and the elevated cost of providing services within historic structures. In particular, acoustic insulation to this building, in the event that improvement was required for any licencing purpose as described above, would prove extremely costly. Subject to that consideration, their proposed use (or as adjusted to eliminate the need to enhance acoustic performance) would imply little harm to the historic building, the considerable benefit of public access but a question mark regarding viability.
- The conversion of the barn for residential purposes is proposed by this application. The value of such a residential unit would be considerable, even after the substantial costs of repair, the upgrading of fabric to allow for domestic environmental standards and the normal aspects of conversion are taken into account. There is little doubt that domestic

use would be viable and would sustain the future of the Listed Building. However, it would do so at a significant cost to the internal character of the internal void. Some subdivision and the insertion of a partial mezzanine, together with the opening of a number of ventilation loopholes into full window apertures to the courtyard would create some degree of harm to both internal and external character, though confined to a 'less than substantial' level, ground which was covered under a previous application SDNP/16/04494/FUL. Residential use would be economically viable but as Guidance advises, the optimum use is not necessarily the most profitable one.

- At the time of prior consultation in 2017, the potential use of the barn for ancillary domestic accommodation was confused by an application to link it to the small converted residential unit in 'The Garages' – actually a range of framed, once fully open wagon sheds. This would have been an entirely unbalanced relationship, unlikely to represent a lasting association between the two buildings, or a viable one.
- However, ancillary domestic accommodation associated with the Manor House would be a different proposition. Such use would be likely to preserve the open character of the interior, unlike the proposal for domestic conversion, or at least put it under minimal pressure for subdivision. It need not imply particularly onerous improvements in insulation or other environmental services. It would preserve the highly sensitive courtyard relationship with the Manor House, without eventual risks of curtilage subdivision. The buildings also have the longest historical association; the barn was originally built by the first Edward Gibbon, father of the historian, in the early Eighteenth Century.
- If there is a realistic prospect that ancillary domestic use, in relation with the Manor House is possible, it is considered this would be regarded as the optimum viable use for the Barn. Only if there is no prospect of this eventuality would domestic conversion be regarded as the optimum viable use, due to the additional harm domestic conversion would cause to character, appearance and fabric.

4.3 Historic England - Objection.

- Concerns are raised on heritage grounds and safeguards (see previous letters dated 10 March 2017 and 30 January 2018) need to be addressed to meet paragraphs 129,131,132,134 of the National Planning Policy Framework.
- Planit Consulting's marketing in support of the Assessment of Optimum Viable Use is inadequate as it only shows marketing for the existing wedding use.
- Ancillary uses have not been thoroughly explored.
- If a community or events use was found to be viable, it would be less harmful than residential conversion and therefore would be a preferred use.
- Conversion to residential use would be harmful to its significance.
- This harm must be clearly and convincingly justified and other uses must be explored in greater detail.
- Regarding the B2C3 Ltd Business Plan for Buriton Manor Barn Historic England is not sufficiently expert in business planning to be able to comment in detail on this document. However, they have involved the Architectural Heritage Fund which has a long track record in supporting community groups caring for heritage properties so this as a very positive step.
- The current condition of the building and future repair and maintenance liability has been taken into account which is a central consideration as far as Historic England is concerned.
- Figures in the B2C3 business plan are redacted so no detailed comments can be offered but it is hoped that SDNP conservation advisers will be checking the levels of funding transferred to the sinking fund etc.
- It is assumed that the proposed corporate structure has been discussed with the AHF to ensure that the public interest is protected. This would be important as only certain models (such as a Community Interest Company) would allow the 'owners' to access publicly funded grants in the future.
- If the proposed community use as described is found to be viable HE would support this as the optimum viable use for the building as it would sustain the significance of the

building, require little or no alteration and would have the added heritage benefit of giving public access to a heritage asset.

4.4 **Hampshire County Council Highways:** No objection subject to conditions.

4.5 **Hampshire County Council Ecology: Objection.**

- The application now includes a short update ecology report (AAe, March 2018) which describes a recent visit to the site and an update on the potential ecological constraints. Site conditions are stated as broadly similar to the previous 2016 visit, albeit that a small number of pipistrelle-type bat droppings were noted on the northern exterior wall of the Tithe Barn as well as a small number of old long-eared-type droppings and moth wings within the Garages. This level of evidence is broadly consistent with the previous survey findings.
- Further surveys are recommended in the report (stated as being necessary to support a European Protected Species licence application for bats) but are not proposed for informing the planning decision. It is now almost four years since the last detailed bat emergence surveys at this site (May 2014) and so it is considered that updating Phase 2 emergence/re-entry surveys are sensible. This would allow an updated assessment of bat activity to be carried out, and be used to inform mitigation proposals. The mitigation strategy presented may well be appropriate but equally it may require amending following the results of any Phase 2 surveys. It would therefore be appropriate for the LPA to be informed of the results of these surveys before stating that the proposed mitigation is indeed proportionate. This is pertinent due to the time period that has now elapsed, plus the fact that the 2014 surveys were carried out at a time when works to several buildings were ongoing and therefore may not have been representative of the use of the site by bats when not disturbed.
- NPPF, Circular 06/2005 and Natural England Standing Advice on Protected Species, require that planning decisions are based on full, up-to-date ecological information and it is essential that all necessary survey, assessment and mitigation information is available to the LPA prior to determination, particularly in the case of protected species, which are a material planning consideration. This will enable the LPA to determine the application on the basis of full knowledge about the ecological impacts of the proposal and to ensure that any impacts can and will be mitigated, and are acceptable.

4.6 **East Hants Environmental Health Officer:** No objection.

- Contaminated Land – no objection.

4.7 **East Hampshire Environmental Services – Comment.**

- Private bins will need to be taken to the current collection point for Manor Farm by white gates by the church.
- Suggest a bin collection point at the main Manor Farm Entrance to screen the bins.
- Concern regarding access and increased traffic impacting risk to visitors.
- Concern regarding upkeep of the car park and pond through construction and future use.

5. Representations

5.1 The following list comprises all representations received following further notification after planning permission and listed building consent being quashed by the High Court. Details of all previous representations received remain valid and are listed under the 13 April 2017 committee report and updates sheet listed as **Appendix 3**.

5.2 9 third-party representations have been received relating to the planning application (SDNP/17/00554/FUL) and 10 third-party representations relating to the listed building consent application (SDNP/17/00595/LIS) all objecting to the proposal. The representations raised the following issues:

- All previous representations should still be considered
- The car park is a sensitive beauty spot integral to the village and is well used
- A different access should be considered

- The Tithe Barn is a potential community asset
- A fully resourced business plan is available for alternative use requiring no changes to the building
- The barn is of interest to the owners of the Manor for an ancillary use
- Existing sewage issues would be exacerbated by the development
- The development is unsympathetic to the setting of the old buildings
- Access is not suitable for commercial development
- There will be an unacceptable increase in vehicle movements
- The development encroaches the village church and graveyard
- New homes with suburban elements will harm views
- Harm to the dark skies status of the village
- Unauthorised works have been carried out at the site

In addition, representations have been submitted from the following groups:

5.3 **Buriton Village Association – Object**

- All previous points made remain valid.
- Historic England highlight two viable alternative solutions.
- South Downs National Park Authority should ask the owners of the Manor whether they would be willing to buy the barn without planning permission for residential use.
- Dangerous and unacceptable levels of traffic through the car park.
- Risk to pinch point in International Dark Skies Reserve, particularly through glazed frontages and French doors.
- Cart sheds should be used for storage and parking rather than residential – privacy and amenity impacts.
- Monks Walk conversion results in undue parking, traffic, noise and domestic paraphernalia.
- Bats have been seen around the barn and further surveys and consideration should be given to this.
- The future use of two areas outside of the application site is unclear.

5.4 **St Mary’s Church - Object**

- A viable offer has been submitted to retain the existing use without interior or exterior alterations.
- The barn was a useful facility for the village.
- The tithe barn wall marks the church boundary.
- Concern regarding foul drainage.
- Risk of damage to church yard through construction.
- Conversion of Monks Walk into three dwellings is over intensification of use.
- Traffic noise and light pollution.
- Dangerous increase in traffic movements through the community car park.

5.5 **Ramblers Association - Object**

- Objection to the scheme is it would change the status of the footpath into a through highway.
- At present no vehicular rights exist over the path.
- The blind spot at the junction with Buriton Footpath I would be a danger to walkers.

5.6 **Buriton Village Design Statement Group - Object**

- Inadequate and insubstantial “Assessment of Optimum Viable Use” provided by the applicant.
- Inconsistent information by the applicant attempting to convince the Planning Authority that the Barn cannot be used for D2, B1 or ancillary residential.
- SDNPA should ask the applicant directly whether he has offered the Barn to the owners of The Manor or whether the owners of The Manor have offered to purchase it or indicated any desire to do so.

- The proposal would harm the setting of the listed buildings and conservation area.

6. Planning Policy Context

National Park Purposes

6.1 The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas;
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well-being of the local community in pursuit of these purposes.

National Planning Policy Framework and Circular 2010

6.2 Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) which was issued and came into effect on 27 March 2012. The Circular and NPPF confirm that National Parks have the highest status of protection and the NPPF states at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in the national parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight in National Parks. Paragraph 116 states that planning permission for major developments within National Parks should be refused except in exceptional circumstances.

6.3 The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant with the NPPF.

7. Planning Policy

Statutory Requirements

7.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 places the following duties on planning authorities when determining applications for listed building consent and planning permission in Conservation Areas:

- In determining a Listed Building application Section 16 requires the local planning authority to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'
- Section 16 relates to the grant of Listed Building Consent and states that in considering whether to grant consent special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- Section 66 (1) states that In considering whether to grant planning permission for development which affects a listed building or its setting the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'
- Section 72 (1) then sets out the general duty on local planning authorities in relation conservation areas and the exercise of planning functions. The section provisions that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.'

7.2 As both Monks Walk and the open fronted barn/garage predate 1948 then they are listed by virtue of being within the historic curtilage of the Tithe Barn and Manor House. As well as requiring listed building consent for the works of conversion the planning application will need to be considered in terms of its impact on the setting of the listed buildings.

Relevant Government Planning Policy and Guidance

7.3 Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy

Framework (NPPF) which was issued and came into effect on 27 March 2012.

- 7.4 The Circular and NPPF confirm that National Parks have the highest status of protection and the NPPF states at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in the national parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight in National Parks.

National Planning Policy Framework (NPPF)

- 7.5 The NPPF states at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in the national parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight in National Parks.
- 7.6 The following National Planning Policy Framework provisions are relevant to the determination applications which relate to designated heritage assets:
- Paragraph 132 - Requires great weight to be given to the asset's conservation and any harm or loss should require clear and convincing justification. This paragraph gives advice on what constitutes 'significant harm' and 'less than significant harm' to a heritage asset.
 - Paragraph 134 - Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
 - The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant with the National Planning Policy Framework.
- 7.7 The following National Planning Policy Framework sections have been considered in the assessment of this application:
- Part 3 - Supporting a prosperous rural economy
 - Part 6 - Delivering a wide choice of high quality homes
 - Part 7 - Requiring good design
 - Part 12 - Conserving and enhancing the historic environment
- 7.8 In addition, it is considered that the following paragraphs of the NPPF are relevant to the determination of this application: Paragraphs 14, 17, 28, 34, 58, 75, 115, 118, 125, 206.
- 7.9 The following policies are relevant to this application:

East Hampshire District Local Plan: Second Review 2006

- C6 – Tree Preservation
- HE2 - Alterations and Extensions to Buildings
- HE4 - New Development in a Conservation Area
- HE5 - Alterations to a Building in a Conservation Area
- HE6 - Change of use of Buildings in a Conservation Area
- HE8 - Development Affecting the Setting of a Conservation Area
- HE10 - Extension or Alteration of a Listed Building
- HE11 – Change of use of a Listed Building
- HE12 - Development Affecting the Setting of a Listed Building
- HE17 - Archaeology and Ancient Monuments
- T4 - Pedestrians and Cyclists
- T14 – Servicing

East Hampshire District Local Plan Joint Core Strategy (2014)

- CPI - Presumption in favour of sustainable development
- CP2 - Spatial Strategy
- CP6 - Rural Economy and Enterprise
- CPI9 - Development in the Countryside

- CP20 – Landscape
- CP21 – Biodiversity
- CP24 - Sustainable construction
- CP25 - Flood Risk
- CP27 – Pollution
- CP29 – Design
- CP30 - Historic Environment
- CP31 - Transport General Comments

South Downs Local Plan: Pre-Submission (2017)

7.10 The South Downs Local Plan: Pre-Submission version September 2017 was published for public consultation on 26 September 2017 for 8 weeks up to 21 November 2017. The next stage in the Plan’s preparation will be its submission for independent examination and thereafter adoption. Until this time, the Pre-Submission Local Plan is a material consideration in the assessment of this planning application in accordance with paragraph 216 of the NPPF, which confirms that weight may be given to policies in emerging plans following publication unless other material considerations indicate otherwise. Based on the current stage of preparation and that the policies are considered to be compliant with the NPPF the Pre-submission Local Plan it is currently afforded some weight.

7.11 The following policies from the South Downs Draft Local Plan Pre-Submission (2017) are relevant:

- SD1: Sustainable Development
- SD4: Landscape Character
- SD5: Design
- SD6: Safeguarding Views
- SD7: Relative Tranquillity
- SD8: Dark Night Skies
- SD9: Biodiversity and Geodiversity
- SD12: Historic Environment
- SD13: Listed Buildings
- SD14: Climate Change and Adaptation of Historic Buildings
- SD15: Conservation Areas
- SD16: Archaeology
- SD19: Transport and Accessibility
- SD20: Walking, Cycling and Equestrian Routes
- SD22: Parking Provision
- SD25: Development Strategy
- SD26: Supply of Homes
- SD41: Conversion of Redundant Agricultural or Forestry Buildings
- SD50: Sustainable Drainage Systems
- SD51: Renewable Energy

South Downs National Park Partnership Management Plan

7.12 The South Downs Partnership Management Plan (SDPMP) was adopted on 3 December 2013. It sets out a vision and long term outcomes for the National Park, as well as 5 year policies and a continually updated Delivery Framework. The SDPMP is a material consideration in planning applications and has some weight pending adoption of the SDNP Local Plan.

7.13 The following Policies are of particular relevance to this case:

- General Policy 1 – conserve and enhance the natural beauty and special qualities of the landscape
- General Policy 3 – protect and enhance tranquillity and dark night skies
- General Policy 9 – the significance of the historic environment is protected from harm
- General Policy 10 – improve the management of heritage assets

- General Policy 28 – improve and maintain rights of way and access land
- Transport Policy 37 – encourage cycling
- Transport Policy 39 – manage vehicle parking

7.14 The Buriton Village Design Statement (VDS) has been adopted as a Supplementary Planning Document (SPD) by the South Downs National Park Authority and is also considered to be of relevance in the determination of the applications. The VDS covers the historical and landscape setting, settlement pattern, open spaces and green corridors, dark night skies and tranquillity, the public realm and the form and style of buildings.

8. Planning Assessment

Principle

- 8.1 There is a broad presumption in favour of residential development on the application site given that the site lies within the village settlement boundary. This has already been established and accepted by Members under a series of previous applications, including SDNP/14/03321/FUL and SDNP/14/03322/LIS where the Inspector agreed with a broad principle in favour of residential development.
- 8.2 The proposal does not constitute major development for the purposes of paragraph 116 of the NPPF or policy SD3 of the emerging South Downs Local Plan: Pre-Submission (2017). In reaching this conclusion, regard has been had to the opinions of James Maurici QC, and the recent judgment of the High Court in R (FH Green Ltd) v South Downs National Park.
- 8.3 The key issues in determining the applications relate to: the impact of the proposals upon the character of the listed buildings and their historic significance; the impact upon the setting of adjoining listed buildings, including the Grade II* listed St Mary's Church and village Conservation Area; design; parking and access; impact on dark night skies and ecology.

Assessing Heritage Impact

- 8.4 Decision taking must have special regard to the desirability of preserving the buildings and their setting including features of special architectural or historic interest which they possess. Paragraph 131 of the Framework requires authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. Paragraph 132 of the Framework requires clear and convincing justification for any harm to, or loss of, significance to a heritage asset.
- 8.5 It is already established and agreed between parties that the proposed residential conversion of the buildings would amount to 'less than substantial' harm under paragraph 134 of the Framework. The proposals would entail both internal and external works to the buildings, albeit without significant demolition or extensions. It is agreed that the residential conversion of Monks Walk and the Garages would be a suitable use of these heritage assets, however the integral issue relates to the conversion of the Grade II listed Tithe Barn.
- 8.6 The approach mandated by paragraphs 132 and 134 of the National Planning Policy Framework is consistent with the statutory obligation under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Case of North Norfolk District Council v SSCLG and Mack [2014] highlights that when decision-taking, the question of harm to a heritage asset 'should not be addressed as a simple balancing exercise but whether there is justification for overriding the presumption in favour of preservation.' In this context Members are required to determine the degree of harm caused against the public benefits of the proposal, including securing its optimum viable use.
- 8.7 The relevance of the optimum viable use of a heritage asset was considered in the recent judgment of R (FH Green) v South Downs National Park. The Court held that neither paragraph 134 nor the statutory duties in the Listed Buildings Act require the optimum viable use to be secured in all cases. However, where a proposal that causes harm to a heritage asset is not the optimum viable use: i) the weight to be attached to securing the long term future of the heritage asset may be limited; and ii) the proposal may not be able to demonstrate a "clear and convincing justification" for the harm. The case also emphasised that when considering alternative uses that may cause less harm than the proposal, there

must be substantial evidence of the viability of those alternative proposals for them to attract any weight as viable uses.

- 8.8 The Planning Practice Guidance discusses the optimum viable use of a heritage asset and states that if there is only one viable use, that use is the optimum viable use. If there is a range of alternative viable uses, the optimum use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. It emphasizes that the optimum viable use may not necessarily be the most profitable one. It might be the original use, but that may no longer be economically viable or even the most compatible with the long-term conservation of the asset. However, if from a conservation point of view there is no real difference between viable uses, then the choice of use is a decision for the owner.
- 8.9 The Practice Guidance sets out that public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress; they should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.
- 8.10 Further to the High Court Decision quashing the planning permission and listed building consent, Members are required to determine the proposals in light of the increasing weight now being attributed to the South Downs Local Plan, the adopted Buriton Village Design Statement (VDS). Officers have considered a number of uses of the Tithe Barn. To assist Members with this assessment the possible uses available for discussion are considered as follows:

Commercial use

- 8.11 Officers' opinion regarding possible commercial use of the Tithe Barn has not changed since the determination of the applications in April 2017 and the Tithe Barn is not considered to be a suitable or realistic employment site, despite there being some economic public benefit. The evidence submitted in the Employment Land Assessment Report remains relevant in outlining the practical constraints of the Tithe barn and its wider context.
- 8.12 It is highly likely that there would be necessary internal changes to the building to facilitate a commercial (office or employment) use, which would result in a detrimental effect upon its historic character. The applicant's Assessment of Optimum Viable use document highlights other constraints including a need for additional parking to comply with Hampshire County Council parking standards. As such this option is considered to be less desirable than other identified uses in heritage terms than the planning and listed building consent application submitted.

Continuation of the extant use (wedding venue)

- 8.13 The Tithe Barn was utilised as a function venue, mainly for weddings in accordance with its lawful planning use granted under 3302/011/FUL. The barn has a lawful use for weddings, receptions, private parties, lectures, seminars, conferences, meetings, exhibitions, corporate events, charity events and local social club meetings, however a premises license was revoked by the East Hampshire Council in April 2016; the building has been disused since this time. The revocation of the license is partly limiting of the building's extant use, given that the license was specifically for events open to the public and activities including dance and provision of live and recorded music, as well as the sale of alcohol. Officers consider that functions such as seminars and business meetings could still be undertaken and a license could be re-applied for.
- 8.14 The applicant undertook marketing of the Tithe Barn through a local agent Richard Mitham Associates and on two property websites (Rightmove and On the Market) between August 2016 and January 2017. The building was marketed as a venue with planning permission for events and functions (Class D2) although it was found that there had been limited interest in third parties operating business. This is set out in further detail under para 2.5 of the April 2017 committee report (listed as **Appendix 3**).

- 8.15 A number of third parties have argued that a license could potentially be granted for a successive business in the Tithe Barn, which would amount to a wider public benefit, although the 2016/17 marketing exercise suggested that many interested parties were not encouraged to pursue the use in the absence of a premises license.
- 8.16 The South Downs National Park Authority has previously queried whether East Hants Licensing team might grant a license for a wedding business again, although advice given was that this would largely depend upon the application and nature of the applicant's business plan. It is also unclear how many events would need to be held to support a profitable wedding business. In light of the marketing undertaken which outlines a generally low level of interest from prospective occupiers, and degree of uncertainty regarding the issuing of a new license, only limited weight can be given to the viability of a continued use as a wedding venue. This proposal is therefore considered not to be the optimum viable use of the Tithe Barn.

Proposed community use B2C3

- 8.17 Further to the assessment and committee in April 2017, a local company B2C3 Ltd has published an updated Business Plan (dated February 2018) setting out an alternative proposal for the use of the Tithe barn. The Business Plan argues that the barn could serve a viable alternative use for the community, serving a number of events including quiz nights, fitness classes, racquet sports, art exhibitions, talks, meetings, concerts, weddings, charity dinners, barn dances and conferences. The proposed use as described would fall within the lawful use specified by the 2002 planning permission, and it is not thought that any internal works would be required to facilitate this use.
- 8.18 The Business Plan sets out a proposed corporate structure including two companies. A limited shares 'Company A' would purchase the barn and rent the barn to 'Company B' which would operate as a 'Community Interest Company' or 'Community Benefit Society'. Company B would hold responsibility for the maintenance of the barn and running of all events. Individuals forming B2C3 have provided information indicating that it has sufficient capital to purchase the building (based on an estimated guide market value given by a local estate agent in February 2017).
- 8.19 Under the previous committee report, officers highlighted concerns regarding ongoing repairs and maintenance of the Tithe Barn and available funds to support the upkeep of the building. The supporting document to the business plan advises that a chartered surveyor was instructed to carry out an initial assessment of the building which concluded that most repairs and maintenance will be associated with fenestration, rainwater goods, as opposed to more extensive works including the repair of the roof. This appraisal of the building's current condition is agreed to be a reasonable assessment by the SDNP conservation officer.
- 8.20 The B2C3 business plan forecasts the business would generate sufficient income to maintain the building based on approximately 40 events per year, consisting of no more than 12 major events by year 5. Whilst officers recognise that the proposed use of the barn for local community events could provide a wider community benefit, the submitted business plan and supporting documents are still not supported by an appropriate level of detailed market research to justify that: a) there is a proven need for an additional events space in this location; or b) that the number of proposed events per year has been reasonably based on evidence of market demand. In the absence of this information, officers remain concerned that the alternative business use would not guarantee the necessary funds to maintain the listed building, reducing the risk of harm to the listed building in the long term.
- 8.21 In conclusion, the proposed community use would secure wider public benefits to the local community above those of a residential use, however questions remain regarding the overall viability of the proposal in the longer term. The PPG emphasises that the optimum use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. For the reasons set out, it is reasonable to consider that the lack of certainty as to the long term viability of the proposed community use means that it cannot be regarded as the optimum viable use of the building.

Proposed use as a single residential unit

- 8.22 The April 2017 committee report concluded that a proposed residential use of the Tithe Barn would be acceptable as it could be considered to sustain the significance and long term preservation of the building without causing substantial harm. It was considered that significant weight could be attached to the benefit of securing the preservation of the building and that the proposed use was the optimum viable use. Officers still consider that a residential use of the barn is a viable one, which demands serious consideration. For the reasons set out below, however, officers no longer consider that it has been demonstrated that single residential use is the optimum viable use.
- 8.23 When compared to alternative uses including that submitted by B2C3 Ltd, the public benefits associated with a private residential conversion are likely to be less. Paragraph 20 of the Practice Guidance is relevant in outlining that 'Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be 'genuine public benefits.'
- 8.24 Officers still consider that the public benefits of the proposal through long term preservation carry some weight in this decision making process. However, because officers no longer consider that single residential use as proposed is the optimum viable use, only limited weight can be attached to the benefit of securing the long term preservation of the heritage asset.
- 8.25 Officers consider that an optimum residential scheme would be one which avoided the need for internal and external alteration. Such a use could be achieved through a residential conversion, ancillary to another property, as has been highlighted by the Conservation Officer and Historic England.

Use ancillary to the Manor

- 8.26 Historic England, the Parish Council and a number of other representations have commented on the wider benefits of an ancillary use of the Tithe Barn in association with the Manor. Indeed, the applicant had previously submitted applications arguing that the Tithe Barn would be viable for use ancillary to the adjoining garage block. It is the association with the Manor House itself which is agreed to be more appropriate, as this would represent the original and historic relationship between heritage assets. Officers consider this marriage of the two buildings would be beneficial, given that an ancillary relationship would not require the extent of building operations associated with a private residential conversion.
- 8.27 As noted above, however, a theoretical use with no substantial evidence to suggest that it is a genuinely viable long term option is not a use that can properly be described as the optimum viable use. As such, it is necessary to consider the evidence as to whether the Tithe Barn could realistically be returned to use ancillary to the Manor.
- 8.28 The current owners of the Manor are Mr and Mrs Figgis. The relevant facts as regards their intentions are set out below:
- On 16 October 2016, Mr and Mrs Figgis made an offer to purchase the Tithe Barn from the current owner (and the applicant for planning permission) Mr Camping for use ancillary to the Manor. They received no response to that offer.
 - On 10 April 2017, Mr Figgis confirmed by email to a third party, Maggie Johnston, that he had a continuing interest – in the event that planning permission for single residential use was refused - in purchasing the Tithe Barn to reunify it with the Manor.
 - On 8 August 2017, planning permission was granted for the change of use of the Tithe Barn to single residential use. Mr and Mrs Figgis then entered into a contract with Mr Camping to purchase the Tithe Barn, conditional on the withdrawal of any legal challenge to the grant of planning permission. That agreement terminated on 10 October 2017 and the planning permission was quashed.
 - On 20 November 2017, Mr and Mrs Figgis entered into a further agreement to purchase the Tithe Barn, subject to a condition precedent that planning permission is granted for the current application. On 21 November 2017, Mr Figgis wrote to the

SDNPA confirming, in terms agreed with Mr Camping as part of the conditional contract of sale, that the SDNPA should treat his previous offer of October 2016 as withdrawn and that it should not form part of the consideration of the planning application.

- On 16 February 2018, officers of the SDNPA wrote to Mr Figgis to inquire why his position had changed and whether – in the event that planning permission was refused – he would continue to have an interest in purchasing the property for use ancillary to the Manor. On 21 February 2018, Mr Figgis replied confirming that his position had changed because Mr Camping was in charge of the sales process and was only willing to sell conditional on planning permission being granted. He also confirmed that he would still be interested in purchasing the Tithe Barn for use ancillary to the Manor in the event that planning permission was refused.
- On 20 March 2018, Mr Figgis wrote to the SDNPA withdrawing his letter of 21 February 2018 and confirming that he has no intention of purchasing the Tithe Barn on terms that restrict residential development and that he would only purchase the property from Mr Camping if planning permission were granted. No explanation for that change in position was provided.

- 8.29 On account of the statutory duty imposed by section 66 of the Listed Buildings Act and the duties arising under paragraphs 132 and 134 of the Framework, officers consider that it is necessary to take into account the entire history of correspondence and not simply the final position that has been reached. Despite Mr Figgis's most recent representations, officers consider that the entire history is relevant to the discharge of the SDNPA's statutory functions.
- 8.30 The current position can be summarised as follows. The current owners of the Manor are willing and able to purchase the Tithe Barn to reunify it with the Manor. The current owners of the Manor have previously expressed an intention to use the Tithe Barn for its original use ancillary to the Manor. However, it is apparent that on the insistence of the applicant, the current contract for sale is conditional on the grant of planning permission so there is no certainty that reunification would happen if planning permission were refused. Moreover, Mr Figgis's most recent correspondence states that he has no intention of purchasing the Tithe Barn on terms that restrict residential development.
- 8.31 A decision therefore needs to be made as to whether there is a realistic prospect of a long term viable use of the Tithe Barn, ancillary to the Manor. Such a use would result in less harm to the fabric of the listed building than a separate residential conversion with a greater public benefit being achieved by re-establishing the historic association between the Manor and one of its outbuildings.
- 8.32 In the event that planning permission and listed building consent were refused Members must consider whether there is a realistic prospect that Mr and Mrs Figgis might revert to their previous position, or a future owner of the Manor might wish to purchase the property for use ancillary to the Manor.
- 8.33 On balance, officers are not satisfied that the applicant has demonstrated that the property has been effectively marketed for sale for use ancillary to the Manor. Previous offers to purchase the property on that basis have not been entertained by the Applicant and it appears that, until February 2018, there was a willing purchaser for that use. Despite Mr Figgis's most recent correspondence, Officers consider that there is at least a realistic prospect that the current owners of the Manor would – in the medium term - be willing to purchase the property for use ancillary to the Manor. It should be stressed that that is not to suggest that Mr Figgis's most recent correspondence is dishonest or the result of undue pressure (as suggested by a third party); simply that the correspondence and conduct as a whole does not suggest that the most recent position reflected in Mr Figgis's 20 March letter is fixed for all time.
- 8.34 In light of the evidence currently available, officers believe that the proposed single residential use is not the optimal viable use of the Tithe Barn, nor would it secure the same extent of wider public benefits associated with an ancillary use. No adequate evidence has been provided to explain why an ancillary use to the Manor could not realistically be

achieved, or why it would be less suitable than conversion to private residential use. Accordingly, applying paragraph 132 of the NPPF, officers are not satisfied that there is clear and convincing justification for the less than substantial harm that will be caused to the listed building. And applying paragraph 134 of the NPPF, the public benefits of the proposal do not outweigh the less than substantial harm.

Design, character and appearance

- 8.35 The proposal remains unchanged from the scheme previously considered at the planning committee (refer to **Appendix 3**) however policies SD4 (Landscape Character), SD5 (Design) SD6 (Safeguarding Views) and SD7 (Relative Tranquillity) in the emerging South Downs Local Plan: Pre-Submission (2017) are relevant for consideration. The Buriton Village Design Statement (VDS) is now adopted and is a material consideration in the determination of planning applications within the settlement.
- 8.36 Members voted in favour of the scheme in April 2017 subject to a strengthened condition for landscaping and enhancements. The design of the proposed scheme is unchanged and officers do not consider that the design would result in adverse harm to local landscape character having regard policies in the emerging Local Plan. Subject to an appropriate scheme of landscaping to improve planting along the southern boundary the visual impact of the scheme where it is visible from more elevated vantage points along the Public Right of Way to the south. The proposal would comply with policies SD5 and SD6.
- 8.37 However, in the event that the Tithe Barn were to retain a use as a wedding and function venue (i.e. the applicant could implement the residential conversion of Monks Walk and yet not fully implement the position, thus continuing to use the Tithe Barn for functions) officers would highlight concerns with regard to additional vehicle movements associated with residential conversions of the Garage Block and Monks Walk. In this scenario the proposals would conflict with emerging policy SD7 of the emerging Local Plan, as well as saved policy T4 of the East Hampshire District Local Plan and Policy CP21 of the East Hampshire District Local Plan Joint Core Strategy. However, in the event that Members vote to approve the planning application, this issue could be resolved through the imposition of a Section 106 agreement to relinquish the use of the Tithe Barn for weddings and functions.

Ecology

- 8.38 The original ecological survey and report was carried out in 2014 by Skilled Ecology Group, and an addendum survey and report was submitted in 2016 by AAe Environmental Consultants, which included proposed bat roosts to be installed in the Garage block. In April 2017, this evidence was deemed to be sufficient to determine the likely impact on protected species, and the proposal was concluded to be acceptable subject to conditions for mitigation and enhancement measures.
- 8.39 The Local Planning Authority has since been advised by the Buriton Village Design Statement Group of recent sightings of bats around the application site and Hampshire County Council Ecology has been notified. Further to consultation with the ecologist it is confirmed that updated survey work is now required in order to determine the potential impact upon protected species, notably bats. The applicant has been advised to carry out further survey work. Whilst a Phase I ecological survey has been carried out it is considered that this is not sufficient and a Phase II survey is required, at the time of writing report such a survey has not been undertaken.
- 8.40 In the absence of further survey work and a report outlining the ecological impact of the proposal by a suitably qualified ecologist, the South Downs National Park Authority is unable to determine the likely impact of the proposal on protected species, contrary to CP21 of the East Hampshire District Local Plan Joint Core Strategy (2014) and SD2 of the emerging South Downs Local Plan: Pre-Submission (2017). It is therefore recommended that the planning application be refused in this respect.

Parking and Access

- 8.41 Further representations have been received highlighting concerns regarding parking and access over the village car park, although these concerns have already been considered as

part of the April 2017 committee report, and there are no material differences between the site today and as it was previously considered in 2017. The conclusions of the previous officer report remain valid, which can be found under **Appendix 3**.

- 8.42 In the event that Members vote to refuse the application, it is recommended that an additional reason for refusal is attached confirming that in the absence of a legal agreement securing the relinquishment of rights to use the Tithe Barn as a function venue (as approved under 33208/011) the proposal would result in an unacceptable degree of vehicular activity through the existing Community Car Park which would result in a danger to users of this and the adjacent highway to their detriment.

Impact on residential amenity

- 8.43 The discussion provided under the April 2017 committee report remains valid, and can be found under **Appendix 3**. Several additional letters of objection have questioned whether the conversion of the Garages and Monks Walk would result in a poor relationship between future occupants due to lack of privacy. The buildings are separated by approximately 12 metres and whilst there is some overlap between the two positions, there would not be excessive overlooking between primary living accommodation.
- 8.44 It should also be noted that under appeal decision for applications SDNP/14/03321/FUL and SDNP/14/03322/LIS the Inspector highlighted that potential occupiers of Monks Walk and the Garages would be well aware of the relationship between the two buildings and this could be mitigated by appropriate landscaping. Officers would therefore not recommend refusal on grounds of unacceptable impacts on residential amenity.

Lighting impacts

- 8.45 The discussion provided under the April 2017 committee report remains valid, and can be found under **Appendix 3**. However Dark Night Skies policy SD8 of the emerging Local Plan 2017 is now relevant in decision making. The Buriton Village Design Statement (VDS) has also been approved and adopted since the determination of the applications in April 2017 which seeks to protect Buriton's status as a 'pinch-point' in the National Park's Dark Skies Reserve.
- 8.46 SD8 requires development proposals to conserve and enhance the intrinsic quality of dark night skies and the integrity of the Dark Sky Core as indicated on the Policies Map. The policy also requires that opportunities are taken to reduce light pollution and to avoid installation of lighting unless it is demonstrated to be necessary and appropriate for its intended purpose.
- 8.47 The VDS also seeks to protect dark night skies from lighting throughout the parish for both public and private areas. Lighting should be: (a) kept to the minimum necessary for safety; whilst (b) preventing light spill or glow by incorporating fixtures such as down lighters and timing switches. Any areas of glazing and roof-lights in new developments and in redevelopments or alterations must also include measures to prevent light pollution (such as specially treated glass).
- 8.48 The areas of the development with the more significant risks of light spill are considered to be Monks Walk (proposed roof lights across both of the main elevations) and the garage block (glazed frontage). With Monks Walk, it is proposed to install Velux automatic electrically operated blackout blinds with a controller linked to external light sensor. This would ensure an automatic blackout function between dusk and dawn which cannot be overridden. It should also be noted that Monks Walk is already a dwelling which benefits from permitted development rights under Class C of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
- 8.49 A number of objectors have reiterated concerns regarding the extent of glazing proposed in the converted garage block. It is commonly the case that glazing is used on conversions of open fronted agricultural buildings and whilst this will result in some light spill into the adjacent outdoor space, the impact could be mitigated to the greatest reasonable extent through the use of low transmittance glazing. This would adhere to the VDS objective to prevent light pollution. Overall, your officers maintain the view that this measure would be

appropriate to reduce the extent of harm caused through the conversion in accordance with emerging policy SD8.

Drainage

- 8.50 Several consultation responses including a representation from Buriton Parish Council highlight concerns regarding capacity of the existing foul drainage system and the potential impact of additional sewerage demands associated with additional units of accommodation. All of the proposed new units would have individual septic tanks installed and East Hants Environmental Health team have been alerted to the situation.

9. Conclusion

Planning Application SDNP/17/00445/FUL

The proposed residential use of the buildings is considered to represent a viable use of the heritage assets. Insufficient evidence however has been provided to demonstrate to the Local Planning Authority that the proposed residential use of the Tithe Barn would represent its optimum viable use, given that there is a viable alternative which could be secured through an ancillary use in connection with the Manor House. It has not been demonstrated that this use has been adequately explored nor has the barn been adequately marketed for such a use. The degree of harm caused to the listed building is therefore not considered to be outweighed by public benefits and overall, there is a conflict with the NPPF and the development plan in this regard. In addition, insufficient information has been provided to demonstrate that the proposed works would not result in a detrimental impact on any protected species which may be present on the site contrary to the Conservation of Habitats and Species Regulations 2010. Finally, in the absence of any legal agreement securing the relinquishment of rights to use the Tithe Barn as a function venue the proposal would result in an unacceptable degree of vehicular activity through the existing Community Car Park which would result in a danger to users of this and the adjacent highway.

Listed Building Consent Application SDNP/17/00595/LIS

The proposed residential use of the buildings is considered to represent a viable use of the heritage assets, however insufficient evidence has been provided to demonstrate to the Local Planning Authority that the proposed residential use of the Tithe Barn would represent its optimum viable use, given that there is a viable alternative which could be secured through an ancillary use in connection with the Manor House. It has not been demonstrated that this use has been adequately explored nor has the barn been adequately marketed for such a use. The degree of harm caused to the fabric of the listed building is not considered to be outweighed by public benefits, contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990, policies in the East Hants development plan, Joint Core Strategy, emerging South Downs Local Plan: Pre-Submission (2017) and National Planning Policy Framework. It is recommended that listed building consent be refused.

10. Reason for Recommendation

- 10.1 It is recommended that the planning application SDNP/17/00554/FUL be refused for the following reasons:
1. In the view of the Local Planning Authority it has not been proven that the proposed residential conversion of the Tithe Barn would represent the optimum viable use of the grade II listed Tithe Barn, in light of evidence confirming that an ancillary residential use in connection with the Manor House is viable and would reunite the historic association between the buildings, in the wider public interest. It has not been demonstrated that this use has been adequately explored nor has the barn been adequately marketed for such a use. Therefore the less than substantial harm caused to the historic fabric of the building resulting from the proposed residential conversion to a single dwelling has not been justified, and is contrary to policies HE2, HE6, HE10, HE11 and HE12 of the East Hampshire District Local Plan: Second Review 2006, policies CPI, CP29, and CP30 of the East Hampshire District Local Plan Joint Core Strategy 2014, emerging policies SD1, SD12 and SD13 of the South Downs Local Plan: Pre-Submission (2017), the National Planning Policy Framework and the Statutory Purposes of the National Park.

2. It has not been demonstrated, on the basis of any updated ecological information submitted with the application, that the proposed works would not result in a detrimental impact on protected species which may be present on the site. Granting permission for the proposal at this stage would therefore be contrary to the Local Planning Authority's role under Conservation of Habitats and Species Regulations 2010, as well as Policy CP21 of the East Hampshire District Local Plan Joint Core Strategy, the National Planning Policy Framework and the First Purposes of the South Downs National Park.
 3. In the absence of a legal agreement securing the relinquishment of rights to use the Tithe Barn as a function venue (as approved under 33208/11) the proposal would result in an unacceptable degree of vehicular activity through the existing Community Car Park which would result in a danger to users of this and the adjacent highway to their detriment. The proposal would therefore be contrary to saved policy T4 of the East Hampshire District Local Plan; Second Review and Policy CP21 of the East Hampshire District Local Plan Joint Core Strategy, the purposes of the National Park.
- 10.2 It is recommended that the listed building consent application SDNP/17/00595/LIS be refused for the following reason:
1. In the view of the Local Planning Authority it has not been proven that the proposed residential conversion of the Tithe Barn would represent the optimum viable use of the grade II listed building, in light of evidence confirming that an ancillary residential use in connection with the Manor House is both viable and would reunite the historic association between the buildings in the wider public interest. It has not been demonstrated that this use has been adequately explored nor has the barn been adequately marketed for such a use. Therefore the less than substantial harm caused to the historic fabric of the building resulting from the proposed residential conversion to a single dwelling is not justified, and would be contrary to policies HE2, HE6, HE10, HE11 and HE12 of the East Hampshire District Local Plan: Second Review 2006, policies CPI, CP29, and CP30 of the East Hampshire District Local Plan Joint Core Strategy 2014, emerging policies SD1, SD12 and SD13 of the South Downs Local Plan: Pre-Submission (2017), the National Planning Policy Framework and the Statutory Purposes of the National Park.
- 11. Crime and Disorder Implication**
- 11.1 It is considered that the proposal does not raise any crime and disorder implications.
- 12. Human Rights Implications**
- 12.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.
- 13. Equality Act 2010**
- 13.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.
- 14. Proactive Working**
- 14.1 In reaching this decision the Local Planning Authority has worked with the applicant in a positive and proactive way, in line with the NPPF. This has included the opportunity to provide additional information to overcome technical issues and the opportunity to amend the proposal to add additional value as identified by SDNPA Officers and consultees. However, given the complex circumstances of the case this did not result in a recommendation of approval in this instance.

TIM SLANEY
Director of Planning
South Downs National Park Authority

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Appendices

1. Court Order – David Elvin QC

2. Site Location Map

3. Planning History

4. Committee Report & Update Sheet – 13 April 2017

SDNPA Consultees

Legal Services & Development Manger

Background Documents

[All planning application plans, supporting documents, consultation and third party responses for SDNP/17/00554FUL](#)

[For SDNP/17/00595/LIS](#)

[East Hampshire Local Plan Second Review \(2006\)](#)

[East Hampshire Joint Core Strategy \(2014\)](#)

[National Planning Policy Framework 2012](#)

[South Downs National Park Partnership Management Plan 2014-2019](#)

[South Downs Local Plan: Pre-Submission \(2017\)](#)

<https://www.southdowns.gov.uk/planning/community-planning/village-design-statements/>

Court Order – David Elvin QC



In the High Court of Justice
Queen's Bench Division
Planning Court

CO Ref:
CO/4196/2017

In the matter of [an application for Judicial Review]

The Queen on the application of B3C3 LIMITED

versus

SOUTH DOWNS NATIONAL PARK AUTHORITY (D) and ROBERT
CAMPING (Interested Party)

On the Claimant's application for judicial review

Following consideration of the documents lodged by the parties

Order by David Elvin QC sitting as a Deputy High Court Judge

- (1) **The claim is allowed by consent and the Defendant's decisions dated 8 August 2017 to grant (a) planning permission (SDNP/17/00554/FUL) for the conversion to residential use of the Tithe Barn and garage building, Monks Walk, Manor House, Buriton, Petersfield, Hampshire and (b) listed building consent for the same project (SDNP/17/00595/LIS), are both hereby quashed.**
- (2) **The Defendant shall pay the Claimant's costs in the sum of £5,500 (inclusive of VAT).**

Observations

Although John Howell QC's Order of 23.10.17 drew attention to the need for an AOS from the IP none has been filed and I have read the email from the IP dated 4.10.17 and noted that there is no further correspondence from the IP. In the circumstances, more than sufficient time having been allowed to the IP to file submissions or evidence I am satisfied I should make an order quashing the decision on ground 3 for the reasons set out in the Defendant's note and in the draft consent order. I am satisfied that in reaching its decision, the D's planning committee failed to consider properly the issue of alternative uses in that it failed to consider an offer by an adjoining owner to purchase the barn and that there was no reasoned consideration of that issue, despite the issue of alternative uses being a significant part of the officer's report and the advice from the Conservation Officer (which advised an optimum ancillary residential use which is what was then offered by the adjoining owner). The listed building consent mirrors the planning permission and should also be quashed on the same ground.

Signed

The date of service of this order is calculated from the date in the section below

For completion by the Planning Court

Sent to the claimant, defendant and any interested party / the claimants, defendants, and any interested party's solicitors on (date):

19 DEC 2017

Planning History

SDNP/17/00554/FUL & SDNP/17/00595/LIS

The South Downs National Park Authority Planning Committee granted planning permission and listed building consent for the above applications on 8th August 2017. The decisions of the Planning Committee were subject to a legal challenge through judicial review proceedings by the Claimant (B2C3 Ltd). Upon further review, the South Downs National Park Authority (SDNPA) confirmed that it would not be defending the claim made against it by the Claimant. The reason was that SDNPA believed that one of the grounds would be successful. The particular ground related to the consideration of the offer made by a third party to purchase the Tithe Barn for use ancillary to the residential use of the Manor House.

On 19 December 2018 David Elvin QC quashed the planning permission and the listed building consent.

SDNP/17/00757/FUL Proposed Conversion of Monks Walk and the Garage building to form 4 dwellings. Use of Tithe Barn as ancillary accommodation (linked to garage conversion). Associated parking and private amenity / garden space.

Withdrawn 27 March 2017

SDNP/17/00778/LIS Proposed Conversion of Monks Walk and the Garage building to form 4 dwellings. Use of Tithe Barn as ancillary accommodation (linked to garage conversion). Associated parking and private amenity / garden space.

Withdrawn 27 March 2017

SDNP/16/04494/FUL Conversion of Tithe Barn, Monks Walk and the Garage building to form 5 dwellings (net increase of 4 units).

Refused 25 January 2017

SDNP/16/05687/LIS Listed Building Consent for Conversion of Tithe Barn, Monks Walk and the Garage building to form 5 dwellings (net increase of 4 units).

Refused 25 January 2017

SDNP/16/01381/FUL Conversion of Monks Walk and the Garage building to form five dwellings

Refused 9 September 2016

SDNP/16/01484/LIS Listed Building Consent for the proposed conversion of Monks Walk and the Garage building to form five dwellings.

Withdrawn 24 January 2017

SDNP/16/01636/FUL Proposed conversion of Tithe Barn to form 2 residential dwellings, each with three bedrooms, parking and amenity space

Refused 9 September 2016

SDNP/16/01637/LIS Listed Building Consent - conversion of Tithe Barn to form 2 residential dwellings, each with three bedrooms, parking and amenity space

Refused 9 September 2016

SDNP/16/00665/HOUS Conversion of garage and loft space (over residential area) into habitable accommodation for use by 1 & 2 Old Stables Cottages

Withdrawn 5 May 2016

SDNP/16/00666/LIS Listed Building Consent – Internal alterations to facilitate conversion of garage and loft space (over residential area) into habitable accommodation for use by 1 & 2 Old Stables Cottages

Approved 27 April 2016

SDNP/15/04749 Removal of conditions 2 & 3 of planning permission 33208/11 (12/8/2002)

Withdrawn 8 January 2016

SDNP/15/04738/LIS Listed Building Consent - Works to the fabric of a listed building to accommodate noise attenuation measures, including re-roofing and re-cladding. Proposed inclusion of acoustic envelope surrounding dance floor and performance space with mezzanine above as part of noise attenuation measures.

Withdrawn 8 January 2016

SDNP/15/03442/LIS Listed Building Consent – Alterations to Manor House Master Bathroom

Approved 2 September 2015

SDNP/15/01636/FUL The Conversion of 1 dwelling on the Manor House Estate to form three dwellings together with parking provision within an existing garage building and immediately adjacent to the garage building. Alterations and change of use of existing outbuilding adjacent to Manor House to be utilised as a ceremony room in conjunction with the Tithe Barn.

Deferred from Planning Committee in July 2015. Application withdrawn 29 December 2015

SDNP/15/01637/LIS Listed Building Consent - for the Conversion of 1 dwelling on the Manor House Estate to form three dwellings together with parking provision within an existing garage building and immediately adjacent to the garage building. Alterations and change of use of existing outbuilding adjacent to Manor House to be utilised as a ceremony room in conjunction with the Tithe Barn.

Deferred from Planning Committee in July 2015. Application Withdrawn 29 December 2015

SDNP/14/01599/HOUSE New entrances to the orangery and stables cottages with cast iron stairs, restoration of dovecote, internal alterations to master bathroom.

Application Refused 15 January 2015 (inadequate garden and amenity space for Manor Lodge: Harm to setting of heritage asset)