

Agenda Item 8 - Report PC68/18 - Appendix 3

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Agenda Item 9 Report PC20/18

Report to	Planning Committee
Date	12 April 2018
By	Director of Planning
Local Authority	SDNPA (Called In Application)
Application Number	SDNP/17/00554/FUL & SDNP/17/00595/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 3302/01 I/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 perspective 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

Contact Officer:	Luke Smith
Tel:	01730 814810
email:	Luke.Smith@southdowns.gov.uk
Appendices	<ol style="list-style-type: none">1. Court Order – David Elvin QC2. Site Location Map3. Planning History4. 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

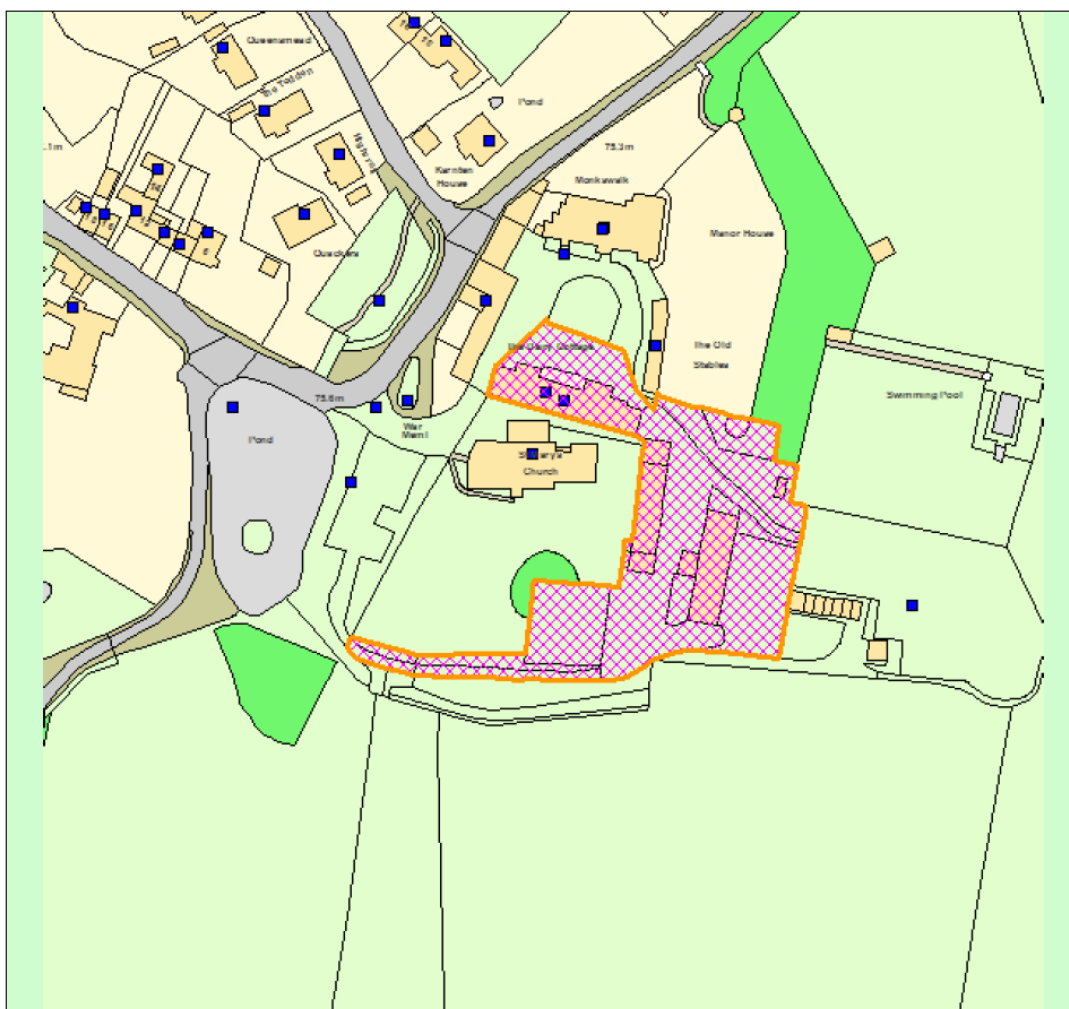
The date of service of this order is calculated from the date in the section below

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

Site Location Map



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. South Downs National Park Authority, Licence No. 100050083 (2016) (Not to scale).

Planning History

SDNP/I7/00554/FUL & SDNP/I7/00595/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/I7/00757/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/I7/00778/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/I6/04494/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/I6/05687/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/I6/01381/FUL Conversion of Monks Walk and the Garage building to form five dwellings

Refused 9 September 2016

SDNP/I6/01484/LIS Listed Building Consent for the proposed conversion of Monks Walk and the Garage building to form five dwellings.

Withdrawn 24 January 2017

SDNP/I6/01636/FUL Proposed conversion of Tithe Barn to form 2 residential dwellings, each with three bedrooms, parking and amenity space

Refused 9 September 2016

SDNP/I6/01637/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/I6/00665/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/I6/00666/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/I5/04749 Removal of conditions 2 & 3 of planning permission 33208/11 (12/8/2002)

Withdrawn 8 January 2016

SDNP/I5/04738/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/I5/03442/LIS Listed Building Consent – Alterations to Manor House Master Bathroom

Approved 2 September 2015

SDNP/I5/01636/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/I5/01637/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/I4/01599/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)

**April 2018 - Appendix 4 - includes documents from
April 2017 Planning Committee**



South Downs
National Park Authority

**Agenda Item 9
Report PC24/17**

Report to	Planning Committee
Date	13 April 2017
By	Director of Planning
Local Authority	East Hampshire District Council
Application Number	SDNP/17/00554/FUL & SDNP/17/00595/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 granted subject to:
 - i. The conditions set out in Section 11 of this report; and
 - ii. The completion of a Section 106 Agreement with obligations relating to The relinquishment of rights to use the Tithe Barn as a function room as approved on planning permission reference number F.33208/011/FUL dated 12 August 2002 (use of the Tithe Barn as a function room)
 2. That authority be delegated to the Director of Planning to refuse the application, with appropriate reasons if the S106 Agreement is not completed or sufficient progress has been made on the agreement within 3 months of the 13 April Planning Committee meeting.
 3. That Listed building consent **SDNP/17/00595/LIS** be granted subject to the conditions set out in Section 12 of this report.
-

Executive Summary

The Manor is situated on the south east edge of the village of Buriton and comprises a variety of listed and unlisted buildings, courtyard, walled garden, grounds and swimming pool within the walled garden. The Manor House and gardens were associated with various outbuildings and until recently were under single ownership. The Manor house itself and the outbuilding on the western side of the courtyard along with much of the courtyard were disposed of separately from the buildings the subject of the current applications.

The planning applications under consideration relate to the residential conversion of the Grade II listed Tithe Barn, the attached 'garages' building and an adjacent building known as 'Monks Walk' to provide five residential dwellings (Monks Walk already in a lawful residential use - therefore the net increase in units is 4). 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 building and Monks Walk.

The applications have been submitted following the refusal of planning and listed building consent applications SDNP/16/04494/FUL and SDNP/16/05687/LIS for the conversion of the same buildings to provide five residential units (see **Appendix 3**). The applications are almost identical in nature

albeit for additional marketing information and written justification to support the works for conversion of the Tithe Barn to a single residential unit. An appeal has been lodged against the previous applications, which is pending review by the Planning Inspectorate.

A second set of applications for planning permission and listed building consent were submitted to the Planning Authority under references SDNP/17/00757/FUL and SDNP/17/00778/LBC. These applications sought the conversion of building on the site to form four new dwellings with the grade II listed Tithe Barn to be used ancillary to the converted garages building. The applications were requested to be withdrawn by the applicant on 27th March 2017.

The applications are placed before Committee due to the sensitive nature of the site within the context of the National Park.

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 the 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.
- I.2 To the west of the courtyard are a group of dwellings referred to as Orangery Cottages. This building was 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 grade II listed Tithe Barn 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 in the lower single storey component.
- 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 and sits at the heart of the Conservation Area. South-east of the courtyard and south-east of the tithe barn are further buildings which are the subject of the applications under consideration. These are:
- I.5 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 garage block is largely roofed with suspected asbestos roof tiles whilst the southern section is roofed with slate tiles. 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.
- I.6 A single (albeit currently disused) dwelling with garaging known as Monks Walk immediately to the east of the garage block. Monks Walk was 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. At the time of the first site visit the ground floor also provided a double garage at its northern and southern end. There is a lawned area to the east of the dwelling which is located outside of the settlement boundary.

- 1.7 Both the garage block and Monks Walk are curtilage listed as they are within the historic curtilage of the Manor House and Tithe Barn.
- 1.8 A single storey residential property known as Old Spot Cottage stands beyond an area of hard-standing to the east of Monks Walk. This includes an area of lawn beyond. This not included in the application site but is in the same ownership and was converted from an agricultural building in the nineties.
- 1.9 All the buildings the subject of the applications under consideration lie within the settlement boundary of Buriton, though the southern access track lies beyond that boundary. The village's 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 and settlement boundary.
- 1.10 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 Manor site can be obtained.

2 Proposal and new information

- 2.1 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 unit.
- 2.2 Additional information has been provided with justification for the conversion of the grade II listed Tithe Barn to a single residential unit, including details of marketing, which has been undertaken since May 2016, and a written Assessment of Optimum Viable Use.
- 2.3 This information complements a resubmitted report put before Members in January 2017 which reviews, appraises and evaluates the prospects for the alternative use of the site for employment uses (Class B Use) in relation to relevant employment land planning policies and revealed commercial market evidence of availability, take-up and vacancy of B Use Class employment floor space in the vicinity of the Site. This report draws on published information from a variety of sources including *East Hampshire's Employment Review Update* (2013) and *South Downs National Park Employment Land Review* (2015) together with commercial market data published by CoStar and the Valuation Office Agency (VOA).
- 2.4 Further to the Employment Land case report, the application includes with this application additional details of a marketing exercise which is stated to have been carried since May 2016. The Tithe Barn has been marketed as a venue with planning permission for events and functions (Class D2) with a local agent Richard Mitham Associates, and is shown to have featured on two property websites (Rightmove and On the Market) since 31st August 2016.
- 2.5 The Tithe Barn has been marketed as a commercial property for lease with a value of £60,000 per Annum, equivalent to £5,000 per month. The submitted marketing evidence comprises the following:
 - 31st August 2016 - email correspondence from Richard Mitham Associates reporting 7 enquiries since May, but none 'serious enough to result in viewings'
 - 31st August 2016 – Spreadsheet of 'On the Market' database confirming marketing commencement on 31st August.
 - 31st August 2017 - Screen capture of a listing with "On the Market" confirming rental availability at £5,000 pcm
 - Screen capture of a listing with 'Rightmove' confirming rental availability at £5,000 pcm
 - 13th and 28th October 2016 & 18th January 2017 - three direct enquiries were made
 - 26th January 2017 - email correspondence from Richard Mitham Associates - Advises that enquiries with interest were put off when advised to speak to East Hampshire District Council about licensing.

- A table of information from agents mutual website showing the level of interest in online advertising between 29 December 2016 and 18 January 2017 - this shows website views on 19th December, 24 December, 27 December, 3rd Jan, 4th Jan, 6 Jan, 8th and 9th Jan.

2.6 Tithe Barn

This latest proposal is 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.

2.7 An area of garden would 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.

2.8 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.

2.9 Monks Walk

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 three dwellings, with gardens provided for each property to the east of the building. The scheme for conversion remains the same as was proposed in application SDNP/16/04494/FUL (refused by the Planning Committee on 15 January 2017).

2.10 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.

2.11 The conversion is achieved within the existing fabric of the building and no extensions are proposed, with the conversion relying on the internal rearrangement of internal walls at ground level and in the roof to create two floors of accommodation. It is acknowledged that some internal works have already taken place and this has been raised in several objection letters.

2.12 First floor accommodation is proposed to be served by a total of 16 roof lights, evenly distributed across both elevations of the main roof. Roof lighting in this building is extensive, although Members are reminded that these details of the conversion were previously considered acceptable by the Planning inspector subject to additional measures to mitigate light spill (with the scheme being dismissed for issues relating to vehicular activity, landscape impact and noise pollution).

2.13 Fenestration and door arrangements are also altered on the ground floor level albeit utilising existing openings where possible and minor 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.

2.14 Open fronted barn

Also known as the 'garages or the 'cart shed', this open fronted building is constructed from a mix of sandstone block, brick walls and a timber frame supporting a slated roof. Given the relatively low ridge height, it is proposed to provide only a ground floor level of residential accommodation, incorporating a garage space for the parking of one vehicle.

2.15 The structure has been used as for car parking and storage in recent years and was the subject of a proposal for conversion to two dwellings under the refused application reference number SDNP/14/03321/FUL. The principle of conversion of this building was considered generally acceptable by the Inspector who considered the appeal of this refused application. 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

barn is to be converted to a single dwelling and the Tithe Barn would cease to be used as a venue.

2.16 Parking and Access

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. It is also proposed to close off any vehicular access through to the courtyard in front of the Manor House as indicated on the submitted 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 nor in the applicant's ownership.

2.17 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.

2.18 The Transport Statement refers to refuse collection for the residential dwellings continuing from the collection point at the northern site access.

3 **Relevant Planning History**

3.1 The planning history is attached as **Appendix 4** of this report.

4 **Consultations**

4.1 **SDNP Conservation Officer - Comment**

- No comments given with regard to the owner's marketing exercise
- A number of past and potential uses need to be considered when attempting to assess the current optimum viable use of the barn. The first, the original, Eighteenth Century use of the structure for agriculture should not detain us for long as this function ceased a considerable time ago and there is no current connection with a local agricultural enterprise.
- In recent years, the barn has been used for functions and weddings. As stated on earlier occasions, this use was good for the listed building as it provided a steady income, sufficient to sustain the maintenance and repair of a substantial structure, and allowed ready appreciation of the spatial quality of the historic interior as well as the incidental advantage of a degree of semi-public access.
- The necessary licence for this use has now lapsed, following problems with noise nuisance; it is probable that the works required for effective sound attenuation would have a significant impact on the fabric of the listed building and some impact on its appearance, though these difficulties may not have proved insurmountable.
- Currently, a civil legal impediment to the reinstatement of the functions use also exists – but this has been imposed recently and these matters can always be subject to negotiation between the relevant parties and subsequent change – they are not necessarily set in stone.
- An employment use of some kind might have the advantage of retaining an unimpeded internal volume, but probable and acknowledged issues related to parking may raise fundamental problems. An 'antiques or crafts barn' kind of use, possibly incorporating a lower-key retail element, may also raise similar issues.
- The conversion of the barn for residential purposes is proposed under 17/00594/FUL. 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 character, though confined to a 'less than substantial' level, ground which was covered under

I6/04494/FUL. The use would be economically viable, but as Guidance tells us the optimum use is not necessarily the most profitable one.

- It has been suggested that use of the barn as domestic ancillary accommodation may prove the optimum viable use here, as it 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.
- However, application I7/00757/FUL [now withdrawn] proposed domestic ancillary use in relation to the converted unit in the 'garages' – actually a range of framed, once fully open-sided, wagon sheds. This indicates that the applicant recognises that domestic ancillary use offers an avenue through which the future of the heritage asset might be assured.
- Though physically attached, this association is unexpected because the hierarchy of relationships seems wrong. The barn is an immeasurably larger and more impressive structure than these wagon sheds. One would not expect a small converted dwelling, offering quite modest accommodation to 'own' such a large structure as an ancillary feature. It is quite difficult to imagine that this unbalanced relationship would sustain the maintenance and future of the larger building for very long, or prove a lasting association. For this reason, I conclude such an arrangement may not prove optimal.
- The final complication is the circulated proposal from Mr W Johnston, representing a group of (presumably local) individuals, interested in making an offer to the owner of the barn with the intention of using it as a 'centre of community and culture'. Until a properly constituted Community Company or Trust is formulated to this end limited weight can be given to this idea, but considerable thought and effort has plainly gone into his projected Business Plan and it is only appropriate that Members should be made aware of it.
- While viability would need to be examined and the use could raise some of the issues that proved problematic for the events business, parking and access in particular, such a use could prove benign for the character of the Listed Building and might carry very significant public benefits.
- These considerations lead to a very complex series of equations weighing assessed degrees of harm to the heritage asset against the public benefits pertaining to each, combined with a realistic appraisal of the probable outcome. One can only describe and work through each balancing exercise in turn, to arrive at the most optimal solution.

4.2 **Buriton Parish Council – Object**

- Objections and concerns are similar to those submitted in relation to SDNP/I6/04494/FUL (and SDNP/I6/05687/LIS), which should be taken into account as well.
- The 'Assessment of Optimum Viable Use' for the Tithe Barn is inadequate.
- The Marketing Exercise undertaken as part of the 'Assessment of Optimum Viable Use' is deficient.
- A Business Plan has been finalised by a community group, which intends to offer to purchase the Tithe Barn - these proposals would keep the barn intact (with no amendments to internal or external appearances) for a range of uses in line with the existing Planning Permission.
- Policy CPI6 of the East Hampshire Joint Core Strategy is relevant as the Manor Barn (Tithe Barn) at Buriton is a popular community venue for a wide range of social activities and events.
- Prior to the applicant's purchase of the Manor House and Barn in a successful wedding business had operated for over 10 years - it was only because the applicant failed to comply with the regulatory regimes that the licence was lost.
- There is new evidence about the importance of the Dark Night Skies above Buriton which these proposals would damage significantly.
- The 'pinch-point' location of the village is of importance to the Dark Night Skies status

- Buriton Parish Council is making progress towards Dark-Sky Association community status
- Conditions cannot control light spill from openings and glazed sections of the buildings as they will not meet the six tests which must be satisfied - this includes the "enforceability" of automated shutters.
- It is unclear whether any external lighting is being proposed
- There is a statement in the bat roost information that implies there will be external lighting,
- The SDNPA Planning Committee has previously rejected similar applications on the grounds of vehicular activity (and safety) through the community car park and these reasons for refusal are still valid in relation to these latest applications.
- Vehicular activity (and safety) through the community car park has previously been given as a reason for refusal and upheld at appeal.
- The District Council and County Council's highways and safety experts have always raised serious concerns about these proposals.
- A National Park Authority should be looking to safeguard tranquillity and safety at such a sensitive, attractive and popular location.
- The proposed parking arrangements are completely unacceptable with insufficient car parking spaces being provided.
- The proposals state that refuse collection vehicles will be required to travel through the car park even though in previous applications EHDC Contracts Monitoring stated that this has not and will not be allowed to happen.
- There will be no easy access to the building for work due to the sensitive nature of the churchyard.
- The proposals represent cramped over-development, incompatible with the rural nature of the setting, so close to the scarp slope, Rights of Way, ancient church and other Listed Buildings.
- Some of the changes would be outside the Settlement Policy Boundary and harmful to a Green Finger of important open space identified in the adopted Buriton Village Design Statement and Local Landscape Character Assessment.
- The proposed conversion of the 'garages' into one dwelling would result in their almost total reconstruction.
- The new dwelling in the 'garages' would over-look windows in the proposed Monks Walk development, allied to the fact that the frontage of the Garages would be predominantly glazed.
- The Garages adjoin the ancient churchyard and would spoil the tranquillity of the consecrated setting as well as potentially affecting ancient yew trees.
- The future use of this social asset should be subject to the full rigours of Policy CPI6 of the East Hampshire District Local Plan, Joint Core Strategy.
- A 'Masterplan' for the site has not been submitted.
- The Application form states there is no hazardous waste yet the garages have asbestos that needs to be removed.
- The application states that no rights of way overlook the site yet the site is overlooked by Buriton Footpaths 1 and 2.
- The Bat Survey is out of date.
- There is a concern about 'run off' into the village pond from the 5 new dwellings (and their vehicles) both during and after the development.
- There is no mention of sound proofing and yet noise generated by families on a daily basis
- Creation of 1.8 m high beech hedges will make this site urbanised and out of character with its rural location in a conservation area.

- There is no provision for storage of garden equipment and associated paraphernalia in Monks Walk.
- The work on the Monks Walk conversion is all but completed despite the statement that no work has started.
- The garages are ideally placed to act as garages for the dwellings proposed for Monks Walk.
- The Kitchen and bathrooms will be vented low down to the rear of the dwellings which will be directly onto the grave yard and the church.

4.3 Highway Authority – comment

- Visibility onto North Lane is good.
- Under SDNP/14/03321/FUL *the Highways Authority has raised no objection regarding the access onto the public highway at North Lane and the appeal Inspector agreed that visibility is adequate and this would not present a danger to highway safety.*
- The Highway Authority has consistently raised concerns regarding any increase in traffic using the access south of the church onto North Lane through the community car park. The car park appears to be regularly used by the public and an increase in vehicle movements could present a safety risk.
- The Planning Inspector echoed these concerns stating that access to Monks Walk and Old Spot Cottage already takes place across this land, and the increased use from the four additional dwellings proposed in these appeals (and cumulatively with the use of the new access track allowed under appeal APP/Y9507/W/15/3023073) would increase the danger to car park and footpath users to an unacceptable degree.
- The current planning application proposes the same refuse collection strategy as before (SDNP/16/04494/FUL) and although the Highways Authority could not object, the Local Planning Authority were advised to take the concerns outlined above into full consideration when determining the application.
- Concerns regarding access via the route to the south of the church via a private driveway and subsequently through the community car park which is also a public footpath.
- No objection, subject to conditions

4.4 Historic England – Object

- Historic England has concerns regarding the application on heritage grounds.
- The issues and safeguards outlined in HE advice need to be addressed in order for the application to meet the requirements of the NPPF.
- Previous advice (November 2016) was that if the authority saw the best route to preservation of this listed building as being through residential use, EH would accept that judgement.
- In respect of the second set of applications (17/00757/FUL and 17/00778/LBC), for ancillary use of the Tithe Barn the conversion is argued for by Planit Consulting largely on the grounds that residential conversion would generate least external change, traffic, etc., while securing the future of the building.
- The 'optimum viable use' for these reasons is argued because of the difficulties with the previous, commercial use, which eventually lost its licence.
- The possible 'ancillary residential use' mentioned in Planit's 'Assessment of Optimum Viable Use' is described as questionable
- It is doubtful whether the future owner of the barn ancillary to the garages would wish to take on the barn as ancillary
- The 'added risk of 'informal' works and operations' through ancillary uses is speculative as well as showing little faith in the Authority's ability to control the listed building stock.

- These arguments for residential use are forgotten in the simultaneous applications to develop the site as ancillary accommodation to the garage conversion.
- To which of these diametrically opposed positions should the Authority give credence? It is true that ancillary use should ideally be to a unit, and a use, likely to produce the funds needed for the repair of the Barn.
- A judgement needs to be made about plausibility of that proposal for ancillary use.
- The case does not appear to be argued in detail and the issues with ancillary uses does not prove that other options of this kind could not work.

4.5 **Ecology – No objection subject to conditions**

- The applications are accompanied by a letter report (AA Environmental, March 2016) detailing the results of a basic Phase I ecological survey of the Tithe Barn and surrounds.
- A letter report dated 15th November 2016 from AA Environmental states that there will be no works affecting the roof void areas above the Tithe Barn eastern extension.
- The ecologist has concluded that there will be no potential for impacts to bats or their potential roosting areas.
- If minded to grant permission it is suggested that the following condition is included:
Development shall proceed in strict accordance with the bat mitigation measures detailed within the letter dated 15th November 2016 (Aare, November 2016) unless otherwise agreed in writing by the local planning authority. Reason: to accord with species protection measures in line with the Conservation Regulations 2010, Wildlife & Countryside Act 198, NERC Act 2006 and Policy CP21 of the East Hampshire District Joint Core Strategy.

South Downs Society – Object

- No objection to the principle of the proposed development.
- Garages should be retained as undercover garaging for the occupiers of these dwellings rather than being converted to another dwelling.
- Concerns that there would be pressure in due course for new undercover parking from the new residents.
- The conversion from a simple cart shed structure to a dwelling would require substantial works and significantly alter the character of the building.
- Concern about introducing substantial areas of glazing and rooflights within the International Dark Skies Reserve being at the narrowest point of the Reserve in the gap between Petersfield and Clanfield.
- If permission is granted, request conditions requiring the installation and use of automatic blinds or curtains.
- Concern at the proposed use/intensification of the southern access to the complex.
- Proposal is to the detriment the popular village car park adjacent to the pond.
- Possible damage to the surface of the car park.
- Vehicular access along Buriton Footpath No.1, is used by walkers.
- The potential use of this path by vehicles would adversely affect the legal public use of this footpath from vehicle movements in and out of the complex.
- Interference with a public right of way
- significant loss of character of the simple cart shed structure, which would be better retained in its current use as undercover parking,
- If minded to approve this application, request condition as follows: *requiring the installation and use of automatic blinds or curtains; restricting external lighting; requiring the approval of both hard and soft landscaping and means of enclosure; and restricting the external storage of domestic paraphernalia.*

4.6 Dark Skies Officer – Comment

- Buriton is a vital pinch point between the Hampshire dark sky core zone and the majority of the reserve in West Sussex.
- If this pinch point were to deteriorate in sky quality then the reserve would fall below the minimum size and no longer be eligible for IDA status - the skies themselves in Buriton (high Bronze) and are of intrinsic importance.
- The combination of sensitivity and quality has encouraged the parish to seek further IDA Community status - of which there are only a few (less than reserves) in the UK.
- Important that any lighting development in the parish is appropriate and does not unnecessarily or excessively reduce sky quality.
- Condition is recommended to be used ensuring that no external lighting be installed without consent.
- One of the other sources of light pollution that this proposal will create is internal spill through glazing. Given the differences between existing and proposed plans I would regard the increase in glazing - particularly the long barn section and the main entrances - excessive and potentially problematic.
- Would suggest the amount of glazing be reduced to an extent that is similar to the existing style, i.e. windows not glazed walls and openings.
- However given the nature of the development, it is likely that pollution will increase and be more persistent into the night regardless of glazing, which is contrary to the aims of dark skies protection and the aims of the Parish.
- Could be partly mitigated using low transmittance glass or smart glass be used to reduce the light from internal sources, but given the scale of change the proposal will present a threat to dark skies.
- If the addition of external lighting requirements are factored in, e.g. access paths, car parks, building illumination, that would normally accompany a proposal of this type then the development could and probably would reduce sky quality in the area, both in terms of overhead sky quality, viewpoints looking down at a dark landscape and the immediate local tranquil vicinity.
- Increase in traffic would also increase light pollution in the area, but due to the method of evidence gathering for reserve status, this is difficult to quantify.

4.7 East Hampshire Environmental Health Contaminated Land – Awaiting comments**4.8 East Hampshire Environmental Health Noise Control - No objection**

- The proposed conversion of the Manor Barn to residential would remove the potential for noise from the use of the barn for functions.
- There are no objections to the proposal.

4.9 East Hampshire Drainage – No objection subject to conditions

- The applicant has submitted a satisfactory flood risk assessment confirming that run-off will not increase post development and that the drainage system will cater for the 1:100 year + 30% climate change event.
- A geotechnical desk top study is also provided. Foul drainage is indicated discharging to an existing septic tank.
- There are no objections in principle subject to satisfactory drainage systems for both foul and surface water. These can be covered by condition DR02, which should include a detailed drainage layout, run-off calculations and site percolation test to BRE 365.
- The existing septic tank requires an independent inspection and report to confirm capacity and suitability for additional dwellings.
- Additionally the applicant needs to provide a detailed maintenance management plan for all drainage features remaining private.

4.10 Environmental Services - Contracts Management Team - Comment

4.11 Refuse and Recycling - Comment

- Private bins will need to be taken to the current collection point for Manor Farm by white gates by the church.
- Community car park by the pond is not adopted highway and it is not appropriate for a 26 tonne refuse vehicle to be driving across this well used car park due to safety issues as well as the fact that it is not part of an adopted highway. Most collection days would require two separate vehicles as waste is collected separately.
- The car park is well used by families and dog walkers and due to its nature children and dogs are often allowed to run free.
- Consideration must also be given to the wildlife that surrounds the pond.
- There is also a concern over the tight turn at the bottom of the car park right at the edge of the pond and ditch.
- Suggest a bin collection point at the main Manor Farm Entrance to screen the bins.
- Each refuse/recycling vehicle can collect from here avoiding damaging the car park or risking injury to visitors or wildlife. Unless the site is adopted crew will not be entering to collect bins.

4.12 Street Care and Grounds Maintenance - Comment

- There are concerns regarding the proposed changes and the change of access to the development.
- The increased traffic, domestic and commercial having negative impact of the community car park and pond area as well as the visitors to the local beauty spot.
- The car park is used by visitors to the pond and also to the South Downs National Park footpaths and rights of way which have recently been upgraded.

4.13 Open Spaces Society - Object

- Adverse effect on the loss of public amenity with regard to the peaceful enjoyment of the area.
- Proposals appear to conflict with the National Park's statutory purposes by spoiling the natural beauty of the parish and damaging the local heritage which is presently enjoyed by both residents and visitors.

5 Representations

5.1 At the time of writing the report, 12 comments objection to the proposal have been received (across both the planning application and listed building consent).

5.2 Although the grounds of objection are many and varied there are nevertheless common themes which have been summarised below.

Parking, access and highway safety

- Motor traffic would be increased presenting a safety risk
- Additional traffic would be detrimental to the setting of the pond and visitors
- Safety risk associated with car park at peak times
- The poor access was commented on by the inspector at appeal 3129452 and 3129457
- There is already a safe entrance to the manor estate
- The surface through the car park is pitted with pot holes
- A refuse lorry cannot negotiate the proposed access
- Poor parking arrangements to monks walk
- Parking spaces should be close to houses in internal garages
- The garages are required for parking and storage and should not be converted
- The garages should be retained as covered parking

Impact on tranquillity and the wider setting

- Loss of privacy for the area around St Mary's church
- Object to windows overlooking the church

- Impact of residential noise will conflict with church services
- No reference to sound proofing
- The manor barn is a place of beauty, memories and heritage
- Bins stored outside the barn would be an eyesore on the conservation area
- Houses should not be built so close to the church

Impact on the heritage assets

- Large openings and glass doors will cause harm through light pollution in a sensitive part of the dark skies reserve
- If approved the barn will pass all historic ties on the site
- The plans are inaccurate and unsympathetic to St Mary's Church
- Access to the manor is blocked by the landscaping for private garden
- Internal conversion of monks walk into three dwellings is largely complete
- Historic features of the grade II listed tithe barn will be lost
- Garage reconstruction would result in the total loss of historic timber structures
- Object to the external changes including ventilation slits

Tithe Barn

- Garden curtilage should not spill into the courtyard
- Lack of evidence that appropriate marketing has been carried out
- The barn should be ancillary to the manor house
- Tithe barn slit windows will be altered
- The marketing exercise fails to meet Historic England's good practice advice note (managing significance in decision-taking in the historic environment)
- The marketing period and means of marketing are lacking - Only 6 months of marketing has been undertaken rather than 12
- The marketing fails to meet the tests required under the East Hampshire Joint Core Strategy
- The wedding venue use could be continued
- Precedent on other decisions should be considered

Other Issues

- Work has already started on the applications
- Too many dwellings segmenting the original site
- A large single dwelling with such limited garden space is unacceptable
- Overdevelopment of the site
- Large increase in the population of the village concentrated in this corner
- The applicant has submitted a different optimum use survey for ancillary use of the barn which conflicts with this application
- Unresolved issues with drainage and septic tanks
- The conversion risks loss of rare habitats

5.3 St Mary's Parochial Church - Object

- It is understood that a viable offer has been submitted for the Tithe Barn to retain an existing use.
- The barn has been a useful amenity for the village.
- New services to the barns could cause problems (foul drains) for the kitchen and toilets in the church Steward room.
- Construction works associated with the garage block could impact the churchyard.
- Increased light and noise from residential use will impact the tranquillity of the churchyard.
- The conversion of Monks Walk is an over-intensification of use.
- There will potentially be dangerous traffic movements from the community car park.

5.4 Buriton Village Design Statement Group - 6 March - Object

- An inadequate and insubstantial 'Assessment of Optimum Viable Use is provided.
- Inconsistent information regarding the capability of the barn to be used for D2 purposes.
- The proposal would harm the setting of the Grade II and II* listed buildings.
- The proposal amounts to overdevelopment and poor design within a sensitive rural location.
- Safety issues are outstanding regarding access, traffic and parking.
- Light pollution and impacts on community work towards becoming a Dark Skies Community.
- Loss of tranquillity and serenity due to adverse changes adjacent to the church.
- The conversion of the cart shed is unsympathetic to listed buildings in the area.
- Historic planning precedents have been set including the existing use of monks walk and use of the Manor courtyard access.
- Information provided is insufficient and inaccurate.
- There is a danger to trees and to biodiversity.
- There are potential water supply and drainage problems.
- The development does not meet the guidelines set out in the Buriton Village Design Statement including reducing glare and light pollution.

5.5 Buriton Village Association - 1 March 2017 - Object

- The assessment of optimum viable use for the main 'Tithe Barn' building is seriously flawed not least the paucity of marketing alleged to have been undertaken.
- Physical changes to the main Grade II Listed 'Tithe Barn' building need not be made – and the association between the Barn and the main (Grade II*) Manor House could be maintained – if an alternative viable use which is currently available was pursued.
- Daily traffic (in both directions) for all the new dwellings in Monks Walk and the historic cart shed 'Garages' will all need to travel through the community car park (and along a public footpath) which the County Highways Authority, District council officers, Ramblers Association, South Downs Society, Parish Council and others have repeatedly pointed out would be unsafe to families and children at the village pond.
- With there being a number of very large glazed areas (including walls and doors as well as lots of new roof lights) it will not be possible to control light pollution in this crucial pinch-point part of the International Dark Skies Reserve by Conditions. Who will check that all the necessary blinds are closed every day?
- Conditions should be enforceable; and lighting conditions will not be - It would be much better to reduce the risk of light pollution by preventing the conversion of the Garage building so that it could serve other domestic uses for residents in Monks Walk.
- Other matters are referred to below and in previous letters about similar planning application at this site.

5.6 Planning Officer Comment: The above list is not exhaustive of the objections received but does cover the material relevant to the determination of the application. An update on representations received after completion of this report will be available for the Committee meeting.

6 Planning Policy Context

6.1 Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan in this area is the

- East Hampshire District Local Plan Second Review 2006
- East Hampshire Local Plan: Joint Core Strategy which was adopted by EHDC on 8th May 2014 and by the SDNPA on 26 June 2014.

- 6.2 The relevant policies and other material considerations to these applications are set out in Section 7 below.
- 6.3 National Park Purposes
The two statutory purposes of the SDNP designation are:
- To conserve and enhance the natural beauty, wildlife and cultural heritage,
 - To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.
- 6.4 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.

7 Planning Policy

- 7.1 Statutory Requirements
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:
- 7.2 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.'
- 7.3 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.'
- 7.4 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.'
- 7.5 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.
- 7.6 Relevant Government Planning Policy and Guidance
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.
- 7.7 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.
- 7.8 National Planning Policy Framework (NPPF)
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.
- 7.9 The following National Planning Policy Framework provisions are relevant to the determination applications which relate to designated heritage assets:
- 7.10 Paragraph 132- Requires greater 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.
- 7.11 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.

- 7.12 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
- 7.13 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
- 7.14 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, 128 – 134, 206, of these paragraphs 128-134 require the SDNPA identification and assessment of the significance of heritage assets and to take account of the desirability to sustain and enhance this significance.
- 7.15 The development plan policies listed below have been assessed for their compliance with the NPPF and are considered to be compliant with the NPPF.
- 7.16 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
- 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)

- CP1 - Presumption in favour of sustainable development
- CP2 - Spatial Strategy
- CP6 - Rural Economy and Enterprise
- CP19 - 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 Partnership Management Plan

- 7.17 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.
- 7.18 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

7.19 The Buriton Village Design Statement is also considered to be relevant to the determination of the applications.

8 Planning Assessment

The main issues for consideration with regard to these applications are:

- Principle
- Impact on a Heritage Assets
- Ecology
- Parking and access
- Impact on residential amenity
- Landscaping
- Drainage
- Ground Contamination
- Lighting and acoustic impacts
- Other issues raised by interested parties

8.1 Principle

Lying within the settlement boundary the general principle of residential development with regard to conversion of a building is acceptable in policy terms. In this particular case and with previous applications for the site, regard must be had to the fact one of the buildings is Grade 2 listed and two are curtilage listed. This and other material considerations are considered in more detail below.

8.2 Impact on Heritage Assets

Members of the Planning Committee refused applications I6/04494/FUL and I6/05687/LIS in January of this year with a principal reason (1) stating:

It has not been demonstrated, on the basis of submitted information, that the proposals would represent the optimum viable use of the Tithe Barn. In the absence of a meaningful marketing exercise to thoroughly explore the optimum viable use which would not have such an impact on the existing building or the setting of the listed building, as the current scheme does, the proposal is therefore contrary to saved policies HE2, HE10, HE11 and HE12 of the East Hampshire District Local Plan; Second Review and Policies CP29 and CP30 of the East Hampshire District Local Plan Joint Core Strategy, the Purposes of the park and the National Planning Policy Framework and National Planning Policy Guidance.

8.3 Assessing the optimum viable use of the grade II listed Tithe Barn remains a key material consideration in determining the current applications. Paragraph 134 of the Framework states: *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.*

8.4 A key word to be considered under paragraph 134 is 'securing' meaning there should be some certainty that it will not only represent but provide the optimum viable use. The Planning Practice Guidance states that:
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.

8.5 In the context of paragraphs 133 and 134 of the Framework it is agreed upon that the harm associated with these applications is less than substantial in nature. This has been confirmed by English Heritage and the Authority's Conservation Officer. The test of optimum viable use therefore is whether the public benefits and harm to the heritage asset associated with a proposed residential use would outweigh existing or alternative viable uses.

- 8.6 Paragraph 020 of the Practice Guidance defines what is meant by the term public benefits. This states:
Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the National Planning Policy Framework (paragraph 7). 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. Public benefits may include heritage benefits, such as:
- *sustaining or enhancing the significance of a heritage asset and the contribution of its setting*
 - *reducing or removing risks to a heritage asset*
 - *securing the optimum viable use of a heritage asset in support of its long term conservation*
- 8.7 Your officers consider there would be a public benefit in securing the long term preservation of the Tithe Barn, particularly where the majority of proposed works affect the internal fabric and do not risk wider harm to the fabric of the Manor courtyard.
- 8.8 The findings of the Employment Land assessment report are still considered to be relevant to the determination of this application and the Authority still concludes, as it did in relation to applications SDNP/16/04494/FUL and SDNP/16/00595/LIS, that the Tithe Barn is not a suitable or realistic employment site despite there being some economic public benefit.
- 8.9 A summary of the findings of the applicant's Employment Land assessment report are:
- Given the close proximity to existing residential properties within the courtyard, any employment use would conflict with the residential amenity of the neighbouring dwellings.
 - Access to the site is limited and is effectively restricted to an access point located between two Grade II listed buildings which offers no prospects for improvement;
 - The site has no dedicated parking relevant for supporting employment uses and would effectively be reliant on the use of a small car park opposite the church that would impact on the setting of the heritage assets, together with the displacement of parking to elsewhere in the village. This has been deemed as unacceptable in past planning / appeal decisions;
 - The servicing and delivery arrangements which support modern business requirements are wholly inadequate at the application Site;
 - Irrespective of the employment use, some form of internal alteration/adaptation of the Tithe Barn would be required to facilitate B Use Class activities,
 - In transport terms, alternative modes to the private car are restricted to a limited local bus service. In this respect, the site is not in a sustainable location.
 - The barn has the potential to accommodate 31 employees in a B1a office use could generate (based on the Homes and Communities Agency (HCA) Employment Density Guide (November 2015
 - In commercial market terms, local evidence of supply and demand confirm very limited demand coupled alongside the existence of a sufficient supply of suitable existing employment accommodation in more sustainable, prominent and visible locations and other clusters of employment activity;
- 8.10 The Local Planning Authority considers that the information provided within the applicant's additional marketing exercise demonstrates that a reasonable attempt has been made to market the barn as a venue since May 2016.
- 8.11 Buriton Parish Council has submitted that the applications should be assessed under Policy CPI6 of the East Hampshire Joint Core Strategy. This explains that development proposing the change of use of 'Community Facilities' will only be permitted if two strict criteria can be met, one of which is a 'rigorous marketing exercise' defined in the supporting text as being 'for a period of at least 12 months'.
- 8.12 Under this policy the Parish Council assert that the required marketing exercise has not been undertaken for a period of at least 12 months as required, and therefore the

applications should be refused. The Glossary of the EHJCS defines Community Facilities as '*facilities that provide for the health and well-being, social, educational, spiritual, recreational, leisure and cultural needs of the community*'.

- 8.13 Whilst there is a strong local interest in the preservation of the Tithe Barn, your officers consider that this policy is not relevant to the applications. The Tithe Barn is a privately owned building which has principally been used for private weddings and events under the current and previous owners and which in any event cannot currently take place.
- 8.14 Notwithstanding the extent of the marketing exercise that has been undertaken, paragraph 134 of the Framework does not explicitly mention the type of evidence that is required to demonstrate the optimum viable use and public benefits, unlike paragraph 133 which gives explicit mention to the need for *appropriate marketing in the medium term* for development amounting to substantial harm of a heritage asset.
- 8.15 The application includes a written assessment of optimum viable use to complement the marketing exercise carried out which concludes that there is no reasonable prospect of use as a wedding venue under the extant D2 use. This assertion is further supported by evidence submitted by the applicant's solicitor, detailing that any attempt to use the barn for any purpose other than a residential use would give rise to a breach of legal agreement. Whilst the plausibility of a use being continued is a material consideration, the Authority cannot consider legal restrictions and covenants, given they can be subject to further change, beyond the realm of the planning decision making process.
- 8.16 The Local Planning Authority has recently been provided with a Business Plan, submitted by a local 'Community Group' fronted by Dr Ian Johnston. Membership of the community group is unclear although an offer is presented for an alternative use of the barn. There has been further confirmation that the group has established a company from which to pursue an offer.
- 8.17 The Business Plan document proposes a use of the Tithe Barn as a 'centre of community and culture' and includes a review of the barn's previous uses, the planning context, a proposal for its use, corporate structure, financial plans and details of an offer.
- 8.18 In summary, the group seek the use of the building for village events, concerts, recitals and charity fairs, although financial figures to support this use are illustrative only, and do not give a guarantee of the performance of the business.
- 8.19 The business plan was forwarded to the applicant inviting comments. A response was provided arguing that the 'community type use will simply not have sufficient funds to preserve the building into the future, and that there is no clear indication that the group will have the capital to purchase the building in the first place.
- 8.20 The applicant highlights that there must be a real prospect that an alternative use of the barn can be 'secured' and notes the comments of Historic England that the best route to the preservation of the listed building would be through a residential use.
- 8.21 The community group assert the proposed use would require no change of use, no planning permission and no listed building consent, given that there would be no physical alterations required to enable this use. It is also argued that the building would be used for small to medium scale unamplified events, thereby reducing noise impacts on nearby residential properties including the Manor and the Orangery, although the extant permission for events and functions does not restrict the use of amplified noise.
- 8.22 Officers have regard to the High Court Cases of Gibson vs Waverley (2012) and the Queen vs Waverley (2015) which offer guidance on assessing the material nature of alternative viable proposals for change of use and works affecting heritage assets. This case law supports the case that where a test of optimum viability is concerned, the decision taker must give weight to potentially viable uses, and in turn balance the level weight in terms of the level of public benefit against the harm to the asset.
- 8.23 Officers consider that a significant amount of work has been put into the proposal, and the business plan shows some level of intention to pursue the proposed use.

- 8.24 Having regard to Gibson vs Waverley (2012) and the Queen vs Waverley (2015) the Business Proposal is considered to be material to the assessment of the applications, although the weight that can be given to this alternative community use is limited.
- 8.25 It is acknowledged that the proposed use of the barn for local community events could provide a community benefit, and the extent of harm caused to the listed building would be less than that associated with conversion to a residential use.
- 8.26 This should however be seen against the context of existing community facilities in the village, such as the village hall, the church hall and the church itself, all of which 'compete' for a limited market of events.
- 8.27 This alternative proposal may amount to the viable use of the building, although the financial information provided does not give a guarantee regarding the future of such a business.
- 8.28 Members are reminded of Practice Guidance on this subject area. The Guidance states *that where there is only one viable use for an asset, that use is the optimum viable use. If there is a range of viable uses, [...] then the optimum use is the one likely to cause the least harm to the significance of the asset.*
- 8.29 The community Business Plan and financial schedule includes a schedule of costs for repairs and maintenance which factors for small repairs. This appears reasonable however the question remains how viable is the alternative use given the sale has not been taken further by the owner.
- 8.30 The Practice Guidance also states: *The vast majority of heritage assets are in private hands. Thus, sustaining heritage assets in the long term often requires an incentive for their active conservation. Putting heritage assets to a viable use is likely to lead to the investment in their maintenance necessary for their long-term conservation.* Whilst the initial harm caused to the fabric of the building through residential conversion would be far greater than a continued D2 use, it is considered to secure the longer term preservation of the heritage asset.
- 8.31 Members are reminded that the use of the word 'securing' [optimum viable use] is highly relevant to this assessment under paragraph 134. If a community use is found to be a viable alternative, officers cannot conclude this can also be secured.
- 8.32 On this subject, the Practice Guidance notes that harm may not just be caused through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. Therefore, there is weight added to the case that a residential use of the barn would be a viable long-term use.
- 8.33 Overall, your officers consider that only limited weight can be given to the alternative community use proposed by the local group, given that it would provide no guarantee of preserving the Tithe Barn through the scale of events and functions under the current D2 use.
- 8.34 Officers consider that the initial harm associated with the works to convert the Tithe Barn to a single dwelling is less than substantial, and is a common feature of many sensitive barn conversions. The less than substantial harm caused, can therefore be measured against the wider benefits and impacts and of the scheme, as discussed below.
- 8.35 Together, the applicant's marketing assessment and supporting arguments provide a convincing argument that the conversion of the Tithe Barn to a residential unit would secure its long term preservation and therefore amount to the optimum viable use of the heritage asset.
- 8.36 Open fronted barn/garage
Representations refer to the potential impact that the works necessary to convert this building would lead to encroachment into the adjacent churchyard and potentially damage to yew trees.
- 8.37 The applicant's agent has advised that there is no requirement to enter the churchyard to carry out the works of conversion and consent for this would, in any event, be required from the PCC.

- 8.38 An informative is therefore recommended to be attached if members are minded to grant planning permission to clarify the position that a grant of planning permission does not authorise any work on or access to land not in the applicant's control.
- 8.39 Ecology
Concerns are raised in letters of objection regarding the impact of the proposal on ecology and whether appropriate up-to-date evidence has been provided. Hampshire Ecologist has reviewed the submitted information including supporting letter from the applicant's ecologist. It is confirmed that the works will be acceptable subject to conditions for works to be carried out in accordance with the recommendations of the survey and report.
- 8.40 Parking and Access
Parking and access arrangements remain as previously described under the applications considered by members at the Planning Committee in January 2017.
- 8.41 Buriton Parish Council have highlighted a concern relating to the wording of the reason for refusal under application 16/04494/FUL. It is mentioned that the Committee's discussion at the January meeting confirmed that vehicle movements associated solely with the additional four units would be unsafe and undesirable. However, if the Tithe Barn is converted to a dwelling, regard must be had to applicant's agreement to enter the Section 106 agreement and therefore the loss of vehicle movements associated with that D2 use.
- 8.42 Two parking spaces are provided in the courtyard serving the Tithe Barn; these are accessed from North Lane via the existing courtyard access. This access is not included in the application site but the applicant has provided details a land registry extract showing they have full rights of access over the land.
- 8.43 Both the three units in Monks Walk and the new unit in the open fronted barn have car parking spaces proposed in the yard area between the two buildings. These spaces are accessed from North Lane through the public car park adjacent to the pond and then the drive which runs to the south of the churchyard. The latter is also a public footpath. Use of this access was the subject of much debate in the consideration of previous applications and the inspector confirmed her concerns about an increase in vehicular activity across the car park. The Inspector commented:
"...the increased use from the four additional dwellings proposed in these appeals...would increase the danger to car park and footpath users to an unacceptable degree"
- 8.44 The Highway Authority has highlighted previous concerns with the site but has raised no objection to this route subject to the applicant be advised of certain responsibilities as the access is shared with a PROW. This can be done through an informative attached to the planning permission.
- 8.45 The Inspector was also particularly concerned about highway safety in relation to collection of refuse which was previously proposed via the southern access. The Highway Authority also refer to refuse collections in its comment on the current application. EHDC have stated they will not collect via the south access but from an area adjacent to North Lane currently used by residential properties on the Manor complex. As per the previous proposal, this arrangement is confirmed in the applicants Transport Statement.
- 8.46 In light of no changes from the previous scheme the access, parking and refuse collection arrangements proposed are, on the basis of the comments received, considered adequate subject to the imposition of appropriate conditions and informative.
- 8.47 If members are minded to approve the application, a condition must be imposed securing the relinquishing of the extant D2 use of the Tithe Barn.
- 8.48 Impact on residential amenity
The scheme remains the same as per that refused by members in January and it is acknowledged that impacts on residential amenity were not highlighted by the committee. Further to concerns by local residents regarding the loss of privacy between Monks Walk and the 'garages', your officers consider that there would be an adequate separation distance between the units, despite the open form of the garage conversion.

- 8.49 All the units provide in Monks Walk are provided with adequate private garden areas to the east of the building. The single dwelling created in the open fronted barn conversion has a very modest patio area on its southern side. However this was not seen as an issue by the Inspector when the earlier appeal was determined.
- 8.50 Landscaping
A landscaping plans has been provided with the application setting out an indicative layout for provision of open spaces and private gardens. This preserves the setting of the Manor Courtyard and entails some subdivision of the land adjacent to Monks Walk.
- The scheme of landscaping has been simplified from that indicated with earlier proposals, but provides clarification of the management of areas to the south of the churchyard, which members had previously expressed concern about. If Members are minded to approve the applications, a condition for a full landscaping scheme is recommended to ensure the additional works are sympathetic to both the setting of the listed buildings and conservation area.
- 8.51 Drainage
The East Hampshire Drainage consultant has advised that subject to condition, the proposed drainage and septic tank details will be acceptable and do not constitute a reason to refuse the applications.
- 8.52 The submitted Flood Risk Assessment indicates that the development will not increase impermeable area, that the run-off will mimic the existing situation and not increase flood risk elsewhere. Conditions requiring the submission of an independent report prior to the commencement of any work are recommended along with a requirement for the foul drainage system to be installed in accordance with details to be submitted and approved prior to any occupation.
- 8.53 Ground Contamination
As per the previous applications, there are no objections to planning permission being granted. However as the proposed development is in an area sensitive to contamination, a standard planning condition could be recommended along with an informative attached to the permission.
- 8.54 Lighting and acoustic impacts
Objections from local residents highlight recent developments in the community dark skies status for the village. It is argued that additional weight must be given to the issues of light pollution because Buriton is at a 'pinch point; within the Park, whereby sensitivity to light pollution is a material consideration.
- 8.55 This aspect was considered on the previous application. This was also considered by the inspector in the appeal decision issued in 2015 where it was concluded on this matter that: *"The Authority has raised no objection to the proposed works to the Monks Walk building other than the impact of additional lighting. I am satisfied that the conditions referred to above would overcome this concern and that the alterations to that building, including a minor improvement in terms of the replacement of a large flue, would preserve its architectural and historic interest, the setting of the listed buildings and the character and appearance of the Conservation Area and the wider area"*.
- 8.56 You officers consider that this matter could still be adequately controlled by a condition requiring automatic electronic shutter blinds and use of tinted low transmittance glass to reduce spill during the hours of darkness.
- 8.57 The proposed conversion of the Manor Barn to a residential dwelling would, if implemented, remove the potential for noise and disturbance associated with the use of the Tithe Barn for functions. Whilst there is no Premises License under the Licensing Act there is still Planning Permission for use as a function venue and the applicant has confirmed they are happy to relinquish rights under this permission through a S106 agreement.
- 8.58 Concerns are raised regarding the loss of tranquility and impact on the adjacent churchyard. This the issue relates to the impact of two dwellings being accommodated in buildings adjacent to the Churchyard. Given the current lawful use of the Tithe Barn as a D2 venue, it

is considered that the proposal will be an improvement on the current position. This was not given as a reason for refusal of the previous applications put before the Planning Committee.

8.59 Other issues raised by interested parties

A concern is raised regarding overdevelopment associated with the conversion of the garages in addition to Monks Walk and the Tithe Barn. The principle for conversion of the garages has already been broadly established at appeal.

8.60 Although not consulted on this application, The South Downs National Park Authority consulted Hampshire Archaeology on the previous scheme (identical to this proposal) in January 2017. The archaeologist did not raise an objection to the scheme.

8.61 The Local Planning Authority has been advised that Buriton Parish Council has nominated the Tithe Barn as an Asset of Community Value under the provisions of the Localism Act 2011. To become an Asset of Community Value a building must enhance the social wellbeing of an area and an assessment is made relating to a) the relevant use of the building in the recent past; and b) the realistic use of the building to meet a set of criteria defining community value.

8.62 Members are advised that this nomination has not been confirmed by East Hampshire District Council, and as such the nomination carries limited weight in this decision making process.

9 Conclusion

9.1 The principle for residential development in this location is established, and your officers consider that the applicant has now addressed the previous concerns raised by Members of the Planning Committee regarding the optimum viable use of the Tithe Barn. Despite some harm to the fabric of the listed building, a residential use of the Tithe Barn is considered to sustain the significance and long term preservation of the building without substantial harm to the contribution of its setting. Therefore the public benefit of a residential unit is considered to represent the optimum viable use of the building in accordance with paragraph 134 of the NPPF.

9.2 Highway safety concerns can be addressed by a condition to secure a Section 106 agreement to relinquish the extant use of the Tithe Barn for events and functions whereby there will be a significant reduction in the total number of vehicle movements associated with the use of the Tithe Barn as venue for functions and events. Additional light pollution associated with new and existing openings is considered to be capable of mitigation and ongoing management by planning condition. A condition is recommended to secure the details of the final landscaping scheme.

9.3 On balance, the Local Planning Authority concludes that the proposed development including change of use of Monks Walk, the garages and the Tithe Barn to five residential units (net increase of 4) has been appropriately justified and would secure wider public benefits through the long term preservation of the heritage assets with less than substantial harm in the context of paragraph 134 of the Framework. Subject to conditions, the proposed works are not considered to result in unacceptable harm to the wider setting of the Buriton Conservation Area, adjacent listed buildings, neighbouring properties or the special qualities of this part of the National Park.

10 Recommendation

It is recommended that planning permission be granted subject to the conditions set out below and subject to the completion of a Section 106 Agreement with relating to:

The relinquishment of rights to use the Tithe Barn as a function room as approved on planning permission reference F.33208/011/FUL (12 August 2002)

It is recommended that the Authority be delegated to the Director of Planning to refuse the application, with appropriate reasons if the S106 Agreement is not

completed or sufficient progress has been made on the agreement within 3 months of the 13 April Planning Committee meeting.

II Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended). To comply with Section 51 of the Planning and Compulsory Purchase Act 2004
- 2 The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans referred to in Consideration of this Application".
Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 Before the development hereby permitted commences details of hard and soft landscape works shall be submitted to and approved by the Local Planning Authority in writing. These details shall include:
 - i. written specifications (including cultivation and other operations associated with plant and grass establishment):
 - ii. schedules of trees/ shrubs/ plants, noting species, planting sizes and proposed numbers/densities where appropriate:
 - iii. retained areas of grassland cover, scrub, hedgerow, and trees;
 - iv. full details and sample panels of walls and fencing;
 - v. Boundary treatments
 - vi. hard surfacing materials to be used in pathways, parking bays and circulation areas;
 - vii. a schedule of landscape maintenance including details of the arrangements for its implementation.The landscaping shall be carried out in accordance with the approved details and maintained for a period of at least 10 years following implementation to the satisfaction of the SDNPA.
Reason: To ensure a satisfactory relationship between the new development and adjacent buildings and residential properties and to improve the appearance of the site in the interests of visual amenity and to comply with Policy CP20 of the East Hampshire District Local Plan; Joint Core Strategy (2014) and NPPF.
- 4 Prior to the commencement of development details of all materials to be used for hard surfaced areas within the site including roads, driveways and car parking area have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the details so approved prior to the occupation of the development.
Reason: To ensure a satisfactory relationship between the new development and adjacent buildings and residential properties and to improve the appearance of the site in the interests of visual amenity and to comply with Policy CP20 of the East Hampshire District Local Plan; Joint Core Strategy (2014) and NPPF.
- 5 Prior to development commencing, detailed plans and elevations of the boundary treatment proposed for the five dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be installed in accordance with the approved details prior to first occupation of the dwellings and shall remain in perpetuity.
Reason: To preserve the rural character of the surrounding area and the setting of the listed buildings.
- 6 Prior to the commencement of development, details of the bin storage and collection points shall be submitted to and approved in writing by the Local Planning Authority. This provision shall be carried out in accordance with the approved details prior to first

occupation of the dwellings being brought into use and thereafter so maintained at all times.

Reason: To ensure adequate and appropriately located bin storage is provided in the interests of highway safety and visual amenity

- 7 No development shall take place until the developer has secured the implementation of a programme of archaeological work, in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework.

- 8 No part of the development hereby permitted shall not be occupied until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 6 and that provision for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework

- 9 No development shall take place, including any works of demolition, until a Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority (LPA). The approved CEMP shall be adhered to throughout the construction period and suitably address:

- the parking of vehicles of site operatives and visitors, both on-site and off-site
- the routes of operation vehicles through the local highway network
- hours during which materials can be delivered to and removed from the site
- the storage of plant and materials used in constructing the development
- wheel washing facilities
- measures to control the emission of dust, mud from vehicles and dirt during construction
- hours during which site clearance, demolition and building operations (including use of plant and machinery) can be undertaken
- The CEMP approved in writing pursuant to this condition shall be adhered to throughout the construction period.

Reason: To safeguard the amenities of nearby residents in accordance with Policy CP2 of the East Hampshire District Local Plan; Joint Core Strategy (2014) and NPPF.

- 10 There shall be no burning of demolition or other materials on the site during the period the works of conversion are taking place

Reason: To safeguard the amenities of nearby residents in accordance with Policy CP2 of the East Hampshire District Local Plan; Joint Core Strategy (2014) and NPPF.

- 11 None of the dwellings hereby approved shall be occupied until works for the disposal of sewerage and surface water run-off have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent possible pollution

- 12 Prior to the commencement of development an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of

the Local Planning Authority. The report of the findings must include: i) a survey of the extent, scale and nature of contamination;

ii) an assessment of the potential risks to:

human health property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;

iii) an appraisal of remedial options, and proposals of the preferred option(s).

This must be conducted in accordance with DEFRA and Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'

Reason: In the interests of the safety and amenity of the future occupants to comply with Policy CP27 of the East Hampshire District Local Plan Joint Core Strategy (2014)

- 13 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historic environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: In the interests of the safety and amenity of the future occupants to comply with Policy CP27 of the East Hampshire District Local Plan Joint Core Strategy (2014)

- 14 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: In the interests of the safety and amenity of the future occupants to comply with Policy CP27 of the East Hampshire District Local Plan Joint Core Strategy (2014)

- 15 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12 which is subject to the approval of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 13.

Reason: In the interests of the safety and amenity of the future occupants to comply with Policy CP27 of the East Hampshire District Local Plan Joint Core Strategy (2014)

- 16 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and re-enacting that Order with or without modification) no development falling within Classes A B C D E F G and H of Part 1 of Schedule 2 to the order shall be erected constructed or placed within the curtilage(s) of the dwelling(s) hereby permitted so as to enlarge improve or otherwise alter the appearance or setting of the dwelling(s) unless permission is granted by the Local Planning Authority pursuant to an application for the purpose.

Reason: In the interest of visual amenity and to ensure the development conserves the landscape character of the South Downs National Park in accordance with Policy CP20 of the East Hampshire District Local Plan; Joint Core Strategy (2014) and NPPF.

- 17 Notwithstanding the provisions of Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and re-enacting that Order with or without modification) no new fences, gates, walls or other means of enclosure shall be erected without the prior written approval of the Local Planning Authority.

Reason: To safeguard the amenities of nearby residents in accordance with Policy CP2 of the East Hampshire District Local Plan; Joint Core Strategy (2014) and NPPF.

- 18 No external lighting shall be installed on site unless details of such lighting, including the intensity of illumination and predicted lighting contours, have been first submitted to, and approved in writing by, the Local Planning Authority prior to first occupation/use of the site. Any external lighting that is installed shall accord with the details so approved.

Reason: To protect the appearance of the area, the environment and wildlife and local residents in accordance with Policy CP20 of the East Hampshire District Local Plan; Joint Core Strategy (2014) and NPPF.

- 19 The dwellings hereby permitted shall not be occupied until parking spaces have been provided in accordance with the approved plans and the spaces shall thereafter be retained solely for the parking of motor vehicles.

Reason: To ensure the safety of persons and vehicles entering and leaving the access and proceeding along the highway.

- 20 The development shall not be occupied until cycle parking has been provided in accordance with details which have been submitted to and approved in writing by the Planning Authority and the areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.

Reason: In order that the development site is accessible by non-car modes and to meet the objectives of sustainable development.

- 21 Prior to development commencing, detailed specifications and plans of the roof lights and associated shutters/blinds to be installed in the three dwellings hereby permitted, including details of how the blinds would be operated, shall be submitted to and approved in writing by the Local Planning Authority. The roof lights and associated shutters/blinds shall be installed and operated in accordance with the approved details prior to first occupation of the dwellings and shall remain in perpetuity.

Reason: To prevent light pollution to the dark skies and to preserve the character of the listed building.

12 It is recommended that listed building consent be granted subject to the conditions set out below:

- 1 The works hereby consented shall be begun before the expiration of three years from the date of this consent.

Reason: To comply with the provision of Section 18(1) of the Planning (Listed Buildings

- 2 The works hereby consented shall be carried out in accordance with the approved plans.

Reason: In the interests of clarity and to comply with the provision of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

- 3 No works shall take place until details of all internal construction works, the methods, materials and components to be used in the works have been submitted to and approved in writing by the Local Planning Authority. Works shall include (but are not limited to) structural strengthening, timber re-jointing, re-plastering, providing service routes and alteration, replacement or maintenance of architectural features. The development shall be completed in accordance with the approved details

Reason: To safeguard the historic fabric and the architectural character and appearance of the buildings in order to comply with the provision of Section 18 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
- 4 A schedule and samples and finishes, including paint, stains or colours of all facing and roofing materials to be used for the proposed works shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works hereby approved, and adhered to in those works.

Reason: To ensure the use of appropriate materials in order to comply with the provision of Section 18 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
- 5 No development shall take place until details of the design and materials of all external rainwater goods have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details and the materials shall not subsequently be altered without the prior written approval of the Local Planning Authority.

Reason: To ensure the use of appropriate materials in order to comply with the provision of Section 18 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
- 6 Prior to the commencement of the works hereby approved to facilitate conversion of the garage block (or at such other time as shall first be agreed in writing by the Local Planning Authority), a comprehensive method statement to describe any necessary timber-frame treatment or repair and the provision of insulation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works hereby approved, and adhered to in those works.

Reason: To safeguard the historic fabric and the architectural character and appearance of the buildings in order to comply with the provision of Section 18 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
- 7 Details of glazing screens, drawn to a scale not less than 1:10, external joinery, roof lights and chimney/vents and flues shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works hereby approved, and adhered to in those works.

Reason: To safeguard the historic fabric and the architectural character and appearance of the buildings in order to comply with the provision of Section 18 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
- 8 All roof lights to be inserted shall all be of a 'conservation' style pattern, without an externally visible blind box, to be flush with the roof plane. Details shall be submitted to and approved by the Local Planning Authority prior to the installation of roof lights and only such roof lights as approved shall be inserted and thereafter permanently retained as such.

Reason: To safeguard the historic fabric and the architectural character and appearance of the buildings in order to comply with the provision of Section 18 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

13 Crime and Disorder Implications

- 13.1 It is considered that the proposal does not raise any crime and disorder implications.

14 Human Rights Implications

- 14.1 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.

15 Equality Act 2010

- 15.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

16 Proactive Working

In accordance with the NNPF the Planning Authority has worked positively and proactively with the applicant to try to resolve issues associated with the applications. This has involved meetings and discussions with officers, and providing opportunities for the applicant to provide additional information during the assessment process.

TIM SLANEY

Director of Planning

South Downs National Park Authority

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Appendices

1. Site Location Map
2. Plans Referred to in Consideration of this Application
3. Decision notices for SDNP/16/04494/FUL and SDNP/16/05687/LIS
4. Planning History

SDNPA Legal Services & Development Manger

Consultees

Background Documents [All planning application plans, supporting documents, consultation and third party responses for SDNP/16/06186/FUL](#)

[For SDNP/16/06187/LIS](#)

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

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

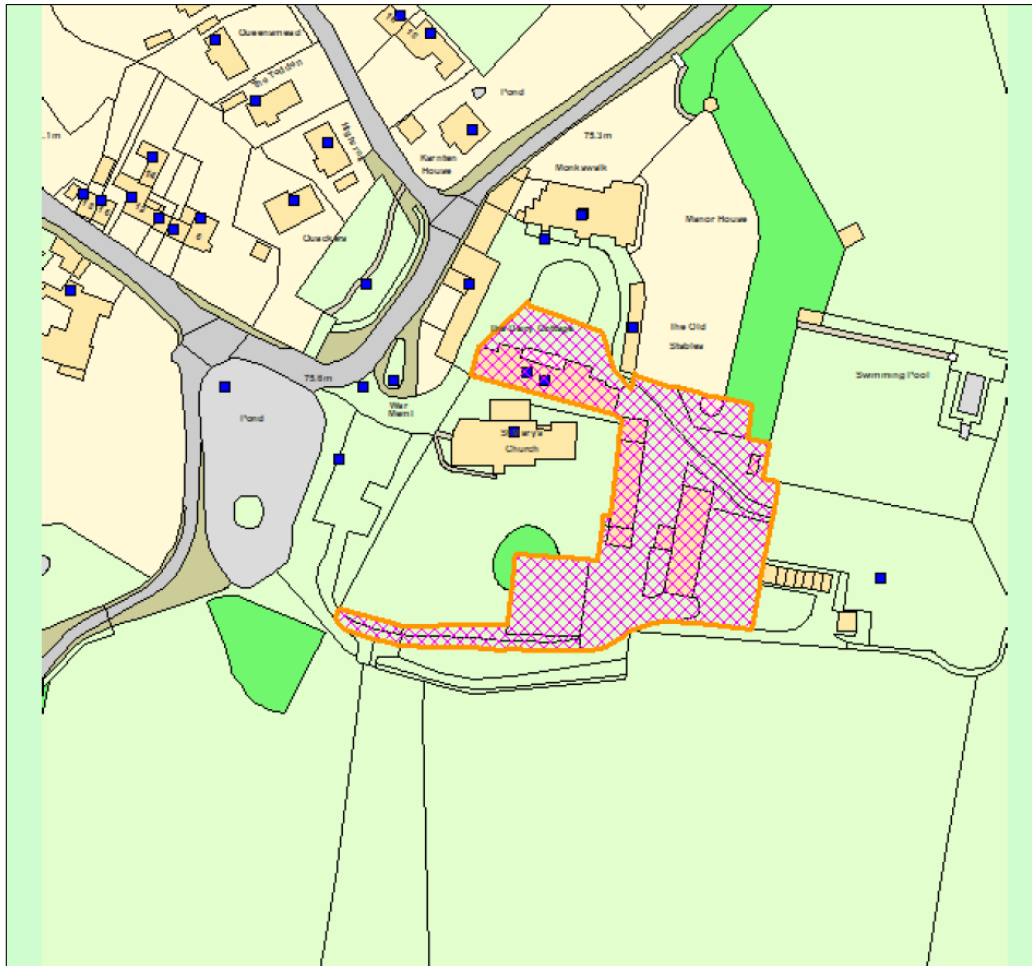
[National Planning Policy Framework 2012](#)

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

Agenda Item 9 Report PC24/17 Appendix I
Site Location Map

Appendix I

Site Location Map



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Agenda Item 9 Report PC24/17 Appendix 2

Plans submitted

Appendix 2 – Plans Referred to in Consideration of this Application

The application has been assessed and recommendation is made on the basis of the following plans and documents submitted:

Plan Type	Reference	Version	Date on Plan	Status
Plans - Photograph Record Sheet	I63085/01		03.02.2017	Submitted
Plans - Photograph Record Sheet	I63085/01		03.02.2017	Submitted
Plans - Location Plan			03.02.2017	Submitted
Plans - Mitigation Plan	FIGURE 1		03.02.2017	Submitted
Plans - Existing Ground Floor Plan	I010/010		03.02.2017	Submitted
Plans - Existing Roof Plan	I010/011		03.02.2017	Submitted
Plans - Existing Elevations 1	I010/012		03.02.2017	Submitted
Plans - Existing Elevations 2	I010/013		03.02.2017	Submitted
Plans - Existing Sections	I010/014		03.02.2017	Submitted
Plans - Proposed Ground Floor Plan	I010/020		03.02.2017	Submitted
Plans - Proposed First Floor Plan	I010/021		03.02.2017	Submitted
Plans - Proposed Roof Plan	I010/022		03.02.2017	Submitted
Plans - Proposed Elevations 1	I010/023		03.02.2017	Submitted
Plans - Proposed Elevations 2	I010/024		03.02.2017	Submitted
Plans - Proposed Sections	I010/025		03.02.2017	Submitted
Plans - Existing Ground Floor Plan	I317(PL)3010	PI	03.02.2017	Submitted
Plans - Existing First Floor Plan	I317(PL)3011	PI	03.02.2017	Submitted
Plans - Existing Roof Plan	I317(PL)3012	PI	03.02.2017	Submitted
Plans - Existing Section A-A	I317(PL)3031	PI	03.02.2017	Submitted
Plans - Existing Elevation North	I317(PL)3040	PI	03.02.2017	Submitted
Plans - Existing Elevation East	I317(PL)3041	PI	03.02.2017	Submitted
Plans - Existing Elevation South	I317(PL)3042	PI	03.02.2017	Submitted
Plans - Existing Elevation West	I317(PL)3043	PI	03.02.2017	Submitted
Plans - Proposed Ground Floor Plan	I317(PL)3110	P2	03.02.2017	Submitted
Plans - Proposed First Floor Plan	I317(PL)3111	P2	03.02.2017	Submitted
Plans - Proposed Roof Plan	I317(PL)3112	PI	03.02.2017	Submitted
Plans - Proposed Section A-A	I317(PL)3131	PI	03.02.2017	Submitted
Plans - Proposed Elevation West	I317(PL)3140	P2	03.02.2017	Submitted
Plans - Proposed Elevation East	I317(PL)3141	PI	03.02.2017	Submitted
Plans - Proposed Elevation North	I317(PL)3142	PI	03.02.2017	Submitted
Plans - Proposed Elevations South	I317(PL)3143	PI	03.02.2017	Submitted
Plans - Bat Roost Plan	FIGURE 2		03.02.2017	Submitted
Plans - Landscape Masterplan and Block Plan	8777-GA-07D		03.02.2017	Submitted
Plans - Flood Map: Zones 2, 3a, 3b and Localised Flooding Areas Tile E			03.02.2017	Submitted

Reasons: For the avoidance of doubt and in the interests of proper planning.

Agenda Item 9 Report PC24/17 Appendix 3
Decision notices

Mrs J Long
Planit Consulting
PO Box 721
Godalming
Surrey
GU7 9BR

TOWN AND COUNTRY PLANNING ACT 1990
Town and Country Planning (Development Management Procedure)
(England) Order 2015

Application No: SDNP/16/04494/FUL
Proposal: Proposed Conversion of Tithe Barn, Monks Walk and the Garage building to form 5 dwellings (net increase of 4 units)
Site Address: Monks Walk and Garages at Buriton Manor, North Lane, Buriton, Petersfield, Hampshire, GU31 5RT

REFUSAL OF PLANNING PERMISSION

In pursuance of its powers under the aforementioned Act, the South Downs National Park Authority, as the Local Planning Authority, hereby **REFUSE** Planning Permission for the above development in accordance with the plans and particulars submitted with your application received on 13th October 2016 for the following reasons:

1. It has not been demonstrated, on the basis of submitted information, that the proposals would represent the optimum viable use of the Tithe Barn. In the absence of a meaningful marketing exercise to thoroughly explore the optimum viable use which would not have such an impact on the existing building or the setting of the listed building, as the current scheme does, the proposal is therefore contrary to saved policies HE2, HE10, HE11 and HE12 of the East Hampshire District Local Plan; Second Review and Policies CP29 and CP30 of the East Hampshire District Local Plan Joint Core Strategy, the Purposes of the park and the National Planning Policy Framework and National Planning Policy Guidance.
2. 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 and the NPPF.
3. It has not been demonstrated, on the basis of the information submitted with the application in relation to areas to the south west of the site by the southern access, that the proposal would not have a detrimental impact on the landscape character of the site and surrounding area and would fail to preserve or enhance the character of the Conservation Area. The proposals would therefore be contrary to saved policies HE4 and HE8, Policy CP20 and CP30 of the East Hampshire District Local Plan Joint Core Strategy, the purposes of the park and the NPPF

INFORMATIVE NOTES

These are advice notes to the applicant and are not part of the planning conditions:

1. Crime and Disorder Implications

It is considered that the proposal does not raise any crime and disorder implications.

2. Human Rights Implications

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.

3. Equality Act 2010

Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

Mrs J Long
PO Box 721
GODALMING
GU7 9BR

**Planning (Listed Building and Conservation Areas) Act 1990
Town and Country Planning (Development Management Procedure)
(England) Order 2015**

Application No: SDNP/16/05687/LIS

Proposal: Proposed conversion of Tithe Barn, Monks Walk and garage building to form 5 dwellings (net increase of 4 units).

Site Address: Monks Walk and Garages at Buriton Manor, North Lane, Buriton, Petersfield, Hampshire, GU31 5RT

REFUSAL OF PLANNING PERMISSION

In pursuance of its powers under the aforementioned Act, the South Downs National Park Authority, as the Local Planning Authority, hereby **REFUSE** Listed Building Consent for the above development in accordance with the plans and particulars submitted with your application received on 15th November 2016 for the following reasons:

1. It has not been demonstrated, on the basis of submitted information, that the proposals would represent the optimum viable use of the Tithe Barn. In the absence of a meaningful marketing exercise to thoroughly explore the optimum viable use which would not have such an impact on the existing building or the setting of the listed building, as the current scheme does, the proposal is therefore contrary to saved policies HE2, HE10, HE11 and HE12 of the East Hampshire District Local Plan; Second Review and Policies CP29 and CP30 of the East Hampshire District Local Plan Joint Core Strategy, the Purposes of the park and the National Planning Policy Framework and National Planning Policy Guidance.

INFORMATIVE NOTES

These are advice notes to the applicant and are not part of the planning conditions:

1. **Crime and Disorder Implications**
It is considered that the proposal does not raise any crime and disorder implications.
2. **Human Rights Implications**
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.
3. **Equality Act 2010**
Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

Agenda Item 9 Report PC24/17 Appendix 4 Planning History

Planning History

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 us 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 us 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 assets)

Excerpt - SDNPA Planning Committee 13 April 2017 Update Sheet - Buriton Agenda Item 9

Agenda Item	Page No	Para	Update	Source/Reason
			The LHA does not consider that the proposed change of use would have 'severe' impact on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (para 32).	
8	16	4.5	Revised comments from the Ecologist sought further clarification from the applicant and recommended further detailed survey work. Following further clarification from the applicant, Officers consider that sufficient information has been provided to make an assessment on the potential ecological impacts and the applicant has put forward appropriate and reasonable mitigation measures (these measures will be secure by condition).	Update
8	16	4.6	Comments are awaited if received they will be reported verbally to Committee. Officers considered sufficient information has been provided to make an assessment on the impact to trees and the applicant has put forward appropriate and reasonable mitigation measures to protect the remaining trees during the construction period (these measures will be secure by conditions).	Update
8	17	4.12	All references to Madehurst Parish Council should be corrected to refer to Madehurst Parish Meeting. Madehurst does not have a Parish Council.	Correction / Clarification
8	18	Section 5	Three further letters of objection have been received from existing objectors. Officers do not consider that these letters raise any new issues (as summarised in Section 5 of the report) or alter the conclusions reached under Section 8 of the report.	Update
8	24	8.19	Amended wording to first sentence. This The issue of viability has been raised by third parties.....	Correction
8	27	8.42	Additional sentence at the end of the paragraph. <i>If permission is granted, the provision of a Section 59 agreement (an agreement under the Highways Act to make good any damage caused to the public highway) could be secured via a S106 legal agreement.</i>	Correction / Clarification
9	45	Recommendation	Recommendation point 2 to be amended as follows: That authority be delegated to the Director of Planning to refuse the application, with appropriate reasons if the S106 Agreement is not completed or sufficient progress has not been made on the agreement within 3 months of the 13 April Planning Committee meeting.	Correction
9	47	2.5	Typing error on date given at bullet point 3. This should state: <ul style="list-style-type: none"> 31 August 2016 - Screen capture of a listing with "On the Market" confirming rental availability at £5,000 pcm 	Correction

Agenda Item	Page No	Para	Update	Source/Reason
9	64	8.47	Amended wording: <i>If members are minded to approve the application, a Section 106 agreement must first be secured to relinquish the extant use of the Tithe Barn as a function venue.</i>	Correction / Clarification
			<p>Email correspondence dated 6 April 2017 from Planit Consulting with additional comments regarding minor inaccuracies:</p> <p>Application form</p> <p>Qu 3. Internal building work has been commenced within Monks Walk, including the addition of chimney flues. These works have been carried out under permitted development rights for which permission is not required.</p> <p>Qu 12. There is a stream within 20 metres to the south of Monks Walk (which will not be, materially impacted upon by the proposed development)</p> <p>Qu 15. There are both trees and hedges within the red line development site, however as this is essentially a 'change of use' application no trees will be affected by this proposal</p> <p>Qu. 24 Only part of the site can be seen from public footpaths and public land therefore entry to the site is need by officers, (hence the 'No' box was ticked)</p> <p>Qu 25. Date given on ownership certificate B incorrectly states 06/08/2016 - Notice under Town and Country Planning (Development Management Procedure) (England) Order 2015 certificate under Article 14 was served on Mr and Mrs Figgis on 10/2/2017 (sent by post with compliments slip)</p> <p>Assessment of Optimum Use Report</p> <p>The venue has been used for concerts, art exhibitions and the odd village events mainly before my client acquired the barn. This was on an infrequent basis. Since acquiring the barn it has been used only once for an art fair and the Campings allowed the school to use it one bad weather day.</p> <p>The application has 5 bedrooms and not 4 bedrooms. This is correctly stated on the application form</p> <p>Other Points</p> <p>The site location plan does not provide an up to date footprint of the Tithe Barn. However the Tithe Barn is correctly shown on the other submitted drawings, including the 1:100 plans. In this respect the 1:1250 location plan does not need to be up to date in terms of buildings on site.</p> <p>The site location plan was amended prior to submission of the application and correctly draws the red line ownership to the north of the Tithe barn.</p> <p>The red line boundary correctly shows the ownership of the application property. Notwithstanding this point the adjacent owners have been notified of the proposal (attached Certificate B) and therefore if is considered any of the application site strays onto their ownership they have been legally notified.</p>	Update

Agenda Item	Page No	Para	Update	Source/Reason
			Officer Comment The points submitted by Planit Consulting are not considered to prejudice the assessment or final recommendation given by officers. The agent has confirmed that Mr and Mrs Figgis were served notice in February 2017 and the responsibility for this procedure rests with the applicant.	Update / Clarification
9			Consultation Response - Hampshire County Council Countryside Service – Public Rights of Way – 4 April 2017 updated 12th April 2017 HCC PROW has reviewed the application and are satisfied that there will not be increased vehicular movements over the public right of way and withdraw our request for a developer contribution towards the future maintenance of Buriton Footpath 1 as referenced under previous response dated 4 th April 2017. PROW still have concerns regarding highway safety and vehicular access rights. We therefore amend our objection to this application and in the interests of the amenity and safety of the public we request the following: <ul style="list-style-type: none"> a) condition to ensure that no development takes place until full details of necessary private vehicular rights of access over the public right of way have been confirmed. b) condition requiring suitable signage to be erected warning drivers of the presence of walkers on the footpath and of the requirement to give way. 	Update
			Officer Comment The access adjacent to the footpath already serves several residential properties including Monks Walk, Old Spot Cottage, the Manor as well as the Tithe Barn which has an extant D2 use as a wedding venue. The proposed works will increase the number of residential units at the site by 4, but would also relinquish the use of the Tithe Barn as a venue for functions and events. Your officers consider that point a) would not be a suitable planning condition as it relates to private access rights. This is not a matter for determination of the planning application and it is a legal matter that the applicant will need to resolve in order to implement the permission if granted. In relation to point b), your officers would question if such a condition would be necessary to make the development acceptable, given that the access already serves the properties referred to above with an overall reduction in the potential vehicle movements associated with the loss of the Tithe Barn as a wedding venue.	

Agenda Item	Page No	Para	Update	Source/Reason
9			<p>Letter to Mr J Geoghegan of East Hampshire District Council Community team dated 22 March regarding Nomination of the Tithe Barn as an Asset of Community Value summarised as follows:</p> <ul style="list-style-type: none"> • The owner (Mr Camping) objects to the nomination of ACV on two principal grounds • For the barn to be of community value, the barn must further the social wellbeing or social interests of the local community and it is realistic to think this can continue, and there was a time in the recent past when an actual non-ancillary use of the Barn furthered the social wellbeing or interests of the local community and it is realistic to think that there is a time in the next five years that there could be such use. • Social interests include cultural, recreational and sporting interests and the Localism Act focuses on local communities, not individuals which have no connection to the locality of the barn. • The barn has been used principally as a privately run wedding venue and since this has ceased the barn has been redundant. There has therefore not been a time in the recent past when a non-ancillary use of the barn furthered the social wellbeing or interests of the local community. • There is a lack of supporting evidence to support the assertion that the barn has been used for the list of events stated by the nominator with no specific community uses between 2001 and 2012 to support the nominee's case. • The nomination fails to evidence that the community value criteria has been satisfied in the recent past and in light of covenants affecting the barn, it is unrealistic to think that the Barn will be used in a way which furthers the community value criteria within the next 5 years. <p>Officer Comment: Whilst the decision relating to the nomination of the Asset of Community Value lies with East Hampshire District Council, your officers consider that the nomination carries very limited weight at this stage in the determination of this application. A decision has yet to be made by EHCC and the applicant has provide reasonable evidence to question its suitability for nomination.</p>	Update
9			<p>Email correspondence from Community Officer, Mr J Geoghegan of East Hampshire District Council received 12 April 2017:</p> <ul style="list-style-type: none"> • The nomination of the barn as an Asset of Community Value is still pending a decision, which will need to be issued by 17th April. As yet, no decision has been issued. 	Update

Agenda Item	Page No	Para	Update	Source/Reason
			<p>Three further representations received from Mr A Grant, Ms F Vesey & Mr N Hooper, Mr C Cooper raising the following points:</p> <ul style="list-style-type: none"> • Unanswered questions regarding frequency of use, noise levels, parking and privacy associated with a continued commercial use of the Tithe Barn • Loss of wedding business has resulted in loss of trade for local businesses • A revival of a community use would support other local businesses • Local employment opportunities if the barn is retained under a community use • Village events have been moved or cancelled due to double bookings with the village hall. • The barn has been used successfully as a venue in the past • The barn can still offer much to the village under a community use <p>Officer Comment: The Authority cannot force the sale of the Tithe Barn to a community group and the community have previously expressed concern over the use of the Tithe Barn under its extant permission. Members are advised to consider what the optimum use is, and not whether an owner of a private asset can be forced to sell.</p>	Update
			<p>Letter sent by Freeths on behalf of the applicant to Richard Mitham Associates on 30 March 2017 regarding an offer to acquire the Tithe Barn. The main points from this letter are:</p> <ol style="list-style-type: none"> 1. <i>The application is considerably below the market price for the barn. Additionally the proposed terms demand that our client does further works to the Barn at his own cost and accept a 6 month retention of £30,000. In return, your clients are demanding that the property is transferred to them without any restriction (including, we note, any restriction on the use of the Barn, despite your clients' stated purpose in acquiring it, or any restriction on your client subsequently developing the Barn themselves).</i> 2. <i>Despite the uncommercial terms your client proposes for our client, they suggest that he should contract with a newly incorporated company (so new that it has not yet been incorporated) which is to act as a special purpose vehicle and which does not have any obvious means to stand behind its proposed contractual obligations. This is particularly important in this case as our client's losses, with the knock on effect on the planning process, would be considerable if our client treated your clients as valid purchasers and they subsequently breached a contract.</i> 3. <i>The Barn is a listed building and your client is proposing to acquire it as an alternative to our client's proposals for residential use. Accordingly, your clients must be able to demonstrate not only that they can genuinely acquire the barn for proper market price, but also that they can maintain the Barn indefinitely in line with its current listing.</i> 	Update

Agenda Item	Page No	Para	Update	Source/Reason
9			<p>4. You have not disclosed who your clients are. The heads of agreement refer to your client only as “A company” and give no information about its proposed shareholders and directors will be. Prior to company set up, you do not confirm who you act for as individuals, beyond the names of Jonathan Jones and Ian Johnston who have signed the heads of agreement. Your clients cannot expect our client to enter into a contract if he does not know who they are. It would clearly subvert the proper planning process if any person now assisting or participating in the proposed purchase were in any way involved with the objections to our client’s planning application without informing the planning committee of this interest. The only reasons our client can see for any ongoing secrecy regarding the purchaser/your clients are:</p> <p>4.1. to conceal the extent to which the people intending to acquire the barn are actively involved in objecting to his application for planning. In this regard, we note that Ian Johnston is husband of the Vice-Chairman of Buriton Parish Council who initially proposed an ACV application in respect of the barn</p> <p>4.2. to avoid disclosing the identity of those behind the alleged offer in case it were treated, to our client’s detriment, as a genuine viable offer but does not then proceed.</p> <p>5. The area your clients propose to acquire for parking is an area that the planning committee has indicated in response to a previous planning application made by our client that it would not want to see any parking. If parking remains a concern for the planning committee, this would be a reason to reject your clients’ proposals.</p> <p>6. Perhaps most fundamentally, as your clients have themselves set out at paragraph 5 of the heads of agreement, the Barn is currently subject to covenants which expressly prevent it from being used, at all, for your client’s intended use. It is simply not credible that your clients would genuinely pay £300,000 for the Barn (regardless of its market value) unless they were certain that they could actually use it.</p> <p>Accordingly, if your clients want to be treated as genuine prospective purchasers, they will need to address the above and provide our client, as a minimum, with:</p> <p>1. Evidence of your clients’ funding and where it is sourced from. Your clients must be able to demonstrate not only that they can purchase the Barn but also maintain it as a listed building;</p> <p>2. Confirmation of the proposed company’s registration and, in the meantime, details of your current clients and the proposed directors and shareholders; and</p> <p>3. Disclosure of any discussions or agreement regarding release of the restrictive covenants and/or consent to your clients’ proposed use of the site despite the covenants. We must emphasise this point in particular as your clients cannot be taken as having any serious intention to acquire the barn without clear plans to be able to use it.</p> <p>Officer Comment: Member are advised that restrictive covenants carry limited weight in decision making, as they can be varied subject to mutual agreement by interested parties.</p>	Update

9		<p>Letter sent by Mr J G Jones dated 5th April submitted to Freeths in response to their letter (referred to above). The main points summarised in the letter are as follows:</p> <ul style="list-style-type: none"> • An offer was made through Richard Mitham Associates and the Business Plan is available on the SDNP website containing answers to questions raised. • A fully financed company has been established with Mr I Johnston as Director and Mr J Jones as Secretary • <i>The company is in a position to purchase the barn at an existing use value and operate it in line with the business plan. No change of existing use Class D2 is proposed.</i> • <i>The purpose of the business is to propose a viable community use of for the barn which secures this historic building for the future and is consistent with its setting at the heart of the village.</i> • The offer is motivated by the refusal of the previous planning application for the barn encouraging the applicant to explore alternative viable uses. • The offer made is genuine. <p>Email correspondence from Mr J G Jones to the Case Officer, received 11 April stating the following: <i>Freeth's letter seeks to question the credibility of our offer and the motives behind it. We emphasise, therefore, that:</i></p> <ol style="list-style-type: none"> 1. <i>Our offer is serious, genuine and carefully considered.</i> 2. <i>Our offer is based on advice about a realistic market value from a nationally known estate agent.</i> 3. <i>We have no other motive than to preserve a beautiful and historic building for the benefit of the community.</i> 4. <i>We have a credible business plan to use the Barn as a community and cultural centre.</i> 5. <i>The plan includes substantial on going provision for maintenance, based on advice from a highly qualified chartered surveyor and drawing on experiences of maintaining similar properties elsewhere.</i> 6. <i>It also explains in detail how we propose to manage car parking for those events which attract external visitors, based on discussions with the Parish Council.</i> 7. <i>We are aware of a number of restrictive covenants , which the applicant has agreed in the past year. Our legal advice is the same as that in the Officer's report i.e. that "the Authority cannot consider legal restrictions and covenants, given they can be subject to further change, beyond the reach of the planning decision making process."</i> 8. <i>A fully incorporated company has been established with an operational bank account and sufficient funds to pursue the acquisition of the Barn.</i> 9. <i>We have replied to Freeth's by the requested deadline with the information requested. So far the applicant has not been willing to explore or discuss our offer. We question whether he is serious about exploring alternative viable uses, as the Planning Authority has requested.</i> 	Update
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Agenda Item	Page No	Para	Update	Source/Reason
			<p>Officer Comments</p> <p>It is not clear that proposed community use would comply with the lawful D2 use of the barn. East Hampshire District Council granted planning permission for the retrospective use of the barn as a function room under planning reference F.33208/01 I/FUL. Condition 1 of the consent restricted the D2 use with the following wording:</p> <p><i>Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, the development hereby permitted shall be used only for weddings, receptions, private parties, lectures, seminars, conferences, meetings, exhibitions, corporate events, charity events and local social club meetings, and for no other uses within Class D2 (assembly and leisure) except with the prior written consent of the Planning Authority.</i></p>	
			<p>Email correspondence received 11 April sent from Mrs M Johnston, Chair of Buriton Parish Council:</p> <p>Buriton Parish Council has recently received a copy of a letter from Freeths Solicitors sent to East Hampshire District Council and dated 22 March 2017.</p> <p>It reveals some very material information with regard to the current planning applications and we enclose a copy.</p> <p>In paragraphs 28 to 32 it is revealed that, as long ago as 24 March 2016, the owner of the Manor Barn (Mr Camping) included clauses in a legal 'transfer' document which promised [Clause 12.10(b)] that the Barn would not be used for any other purpose than for private dwellings. In Clause 12.10(c) Mr Camping also covenanted not to carry out any trade or business in the Barn. The Parish Council has a full copy of this transfer document (also received from EHDC) if it would be of any interest to SDNPA.</p> <p>In paragraph 30, point (c) the letter stresses that Mr Camping is "under a positive obligation" to only use the Barn for residential purposes and paragraph 32 explains that "it is not realistic, or remotely reasonable, to think that the owner will open himself up to a claim for breach of the several covenants set out therein."</p> <p>These promises (and these covenants) must cast even more doubt about the adequacy and thoroughness of the applicant's marketing exercise which, it appears, commenced in May 2016 – two months <u>after</u> the legal promises were made to use the Barn only for residential purposes.</p> <p>With these covenants (and their implications) in place from 24 March 2016, is the SDNPA really satisfied that the Barn has really been promoted / marketed for any purposes other than residential use?</p> <p>Case law from the High Court case of Gibson vs Waverley concludes that "Marketing of a heritage asset will only be of weight if it has adequately tested the market ...".</p> <p>Members of your Planning Committee will surely conclude that since March 2016 the applicant has only ever had one intention in mind (to sell the Barn for residential purposes) and that this therefore explains the paucity and restricted nature of the marketing exercise.</p>	Update

Agenda Item	Page No	Para	Update	Source/Reason
9			<p><i>This issue connects with the 5 Questions which the Parish Council has repeatedly put to Mr Camping in writing (first copied to Messrs Slaney, Ainslie, Scammell and Harrison on 2^h February 2017).</i></p> <p><i>The Parish Council had noted that, in his report on application SDNP/16/0449/FUL, the Conservation Officer identified as the possible optimum viable use of the barn its use as ancillary domestic accommodation for the Manor House.</i></p> <p><i>However, Planit Consulting's "Assessment of Optimum Viable Use", which accompanies the current applications, does not refer to the Manor House or make any assessment of this particular use.</i></p> <p><i>In the Parish Council's view it is important that the viability of this potential use should be addressed and the facts relating to it established.</i></p> <p><i>The Parish Council, therefore, asked Mr Camping to provide answers to the following questions:</i></p> <p><i>Has the barn been offered for sale to the owners of the Manor House? If so, when?</i></p> <p><i>Have the owners of the Manor House offered to buy the barn? If so, when?</i></p> <p><i>If yes to 1 and/or 2, has any such offer been refused or withdrawn or has it lapsed?</i></p> <p><i>If yes to 3, please provide particulars as to why the (or each) offer has been refused or withdrawn or has lapsed</i></p> <p><i>If there is no outstanding offer either to buy or to sell the barn, will you now invite the owners of the Manor House to make an offer to buy the building?</i></p> <p><i>Despite repeated attempts to get answers from Mr Camping, no replies have ever been forthcoming.</i></p> <p><i>In order to satisfy itself about the availability or otherwise of at least one potential 'Alternative Viable Use' (and about the adequacy of the applicant's marketing exercise) SDNPA must insist upon receiving answers to each of these five questions from Mr Camping.</i></p> <p><i>Without answers to these questions it is impossible for the SDNPA to conclude that the marketing exercise has been adequate to demonstrate that the market has been thoroughly tested.</i></p> <p><i>We trust that this new information is helpful to you and that it will all be taken into account when the Planning Committee considers this matter on Thursday.</i></p> <p>Officer Comment:</p> <p>The applicant has advised that covenants were attached to the legal transfer of the Manor in order to protect the amenity of the new occupants of the Manor and adjoining properties. Covenants carry limited weight in determining planning applications, and it is acknowledged that covenants can be subject to amendment.</p> <p>Members are advised that a marketing exercise is not the only way in which a viable use can be proven. Your officers consider that the applicant has provided sufficient justification in the form of a written assessment, marketing information, report of potential commercial uses and additional correspondence.</p>	Update

Agenda Item	Page No	Para	Update	Source/Reason
9			<p>Email correspondence from St Mary's Church received 11 April 2017</p> <p><i>I refer to the committee report on the above application and item 8.26 concerning the proposal to use the barn for D2 uses. We have carefully considered the matter and conclude that there would not be any adverse impact or conflict on either the church itself or the church hall (Steward room) by the proposed D2 uses in the barn. Indeed these uses will attract more visitors to Buriton and we always like to encourage people to come into the church to appreciate its beauty and tranquillity.</i></p> <p>Officer Comment:</p> <p>The change of use of the Tithe Barn and garages to dwellings is considered to result in a lesser impact than the extant D2 use.</p>	Update
9			<p>Email correspondence from Buriton Parish Council Village Hall Committee received 11 April 2017</p> <p><i>Further to your report recommending acceptance of Planning Application Nos SDNP/17/00554/FUL and SDNP/17/00595/LIS [description] I refer you to comments at Para 8.26.</i></p> <p><i>The Village Hall has happily coexisted with the Barn for over 15 plus years. The two venues offer different event spaces in both character and scale.</i></p> <p><i>The proposed use for the barn would not conflict with the existing use of the Village Hall and we welcome the proposed venture for the village.</i></p> <p>Officer Comment: It is acknowledged that the Tithe Barn is different in character, shape and form to the village hall, although the Tithe Barn has served a private business rather than a venue for frequent community use.</p>	Update

Agenda Item	Page No	Para	Update	Source/ Reason
9	91	Appendices	<p>It is noted that there are discrepancies within the body of the report regarding numbering references for the appendices, which has resulted from changes during formatting of the document. For the avoidance of doubt the appendices are presented in the following order:</p> <p>Appendix 1 – High Court Decision</p> <p>Appendix 2 – Site Location Plan</p> <p>Appendix 3 – Planning History</p> <p>Appendix 4 – April 2013 Committee Report & Updates Sheet (separate document)</p>	Correction/ Clarification
9			<p>Additional information has been received from B2C3 Ltd, relating to maintenance and other costs associated with a proposed community use. A redacted version of the document has been published online although the non-redacted version has been provided to Officers. The main points are as follows:</p> <ul style="list-style-type: none"> • The document details costs allowed for in the business plan including stamp duty, initial repair costs, initial equipment outlay, sinking fund, other fixed costs, marketing and management, other unknown costs, additional capital outlay, and rent (per anum) • A table of comparison with other similar businesses is provided including the Cross Barn in Odiham, the Tithe Barn in Nailsea, the Tythe Barn in Launton and the Tithe Barn in Lenmham. • The document refers to discussions with a technical advisor to the Historic Houses Association and it is advised that the annual sinking fund for long term maintenance of the barn is “very appropriate” <p>Officers will provide members with verbal comments on this submission during the planning committee meeting.</p>	Update

9	77-78	After para 5.6	<p>Insert as para 5.7:</p> <p>A letter from Hampshire Buildings Preservation Trust has been received in support of B2C3 Ltd business proposal. The letter has been published online but can be summarised as follows:</p> <ul style="list-style-type: none"> • HBPT are confident that the financial arrangements, the proposals to lease to a Community Interest Company and proposed frequency of use for events are a realistic estimate of the income required for viability, resilience and sustainability. • The plan is conservative in its cost and income assumptions. HBPT have had involvement in similar activities at properties in their ownership that are leased to other organisations to operate. • There is evidence to support the B2C3 proposal which offers an opportunity for promoting a member of HBPT, the South Downs National Park, through exhibitions, cultural and educational events and signposting to the National Park and the South Downs Way. • There is the prospect of community benefit in the B2C3 proposal which envisages cooperation with village organisations, the Church and the owner of Buriton Manor. • In planning terms, the former use for community events, if it continues, would not require a change of use planning application. • There may be a requirement for listed building consent to address disabled access, and for service delivery to the entrances by events vehicles. This would involve ground surface change from grass to hard surface. • The Barn is in good repair and the costs allowed for ongoing activities and initial repairs are reasonable. The proposed sinking fund would cover the longer term maintenance needs. The financial support in the community could respond to any unforeseen building conditions that may arise. • The Conservation Officer's comments are noted and although licensing issues are not a material planning consideration and are to be dealt with by East Hampshire District Council. • It is agreed that acoustic insulation would damage the heritage asset of the Barn although assurances by the company are firm that there is no intention to use amplified sound or music that would disturb night time ambience or Church services. 	Update
9 (Cont)	77-78	After para 5.6	<ul style="list-style-type: none"> • The optimum use would be for community, cultural and corporate events, rather than conversion to residential use which could compromise the heritage characteristics of the Barn. • Ancillary use to the Manor House and certainly Residential Development would be unlikely to generate the ongoing funding of conservation, for which B2C3 Ltd has made adequate provision in their business plan. <p>Officers will provide members with verbal comments on this submission during the planning committee meeting.</p>	Update

9	84-85	8.28	<p>A summary of discussions between South Downs National Park Authority and the owners of the Manor, Mr and Mrs Figgis, is provided at paragraph 8.28 of the report. Officers have provided Freeths (who are acting on behalf of the applicant) and Mr Figgis with a summary of that correspondence for comment, however there was insufficient time to allow for clarification between all parties.</p> <p>Freeths have advised that:</p> <ul style="list-style-type: none"> • The applicant does not accept that the summary is an accurate reflection of Mr Figgis' position. • In relation to bullet point 1, it is not the case no response was given to Mr and Mrs Figgis regarding an offer which was made to purchase the Tithe Barn made on 16 October 2016. Regardless, the offer and objection in respect of the previous application for the Tithe Barn were withdrawn on 7th January 2017. • Mr Figgis has never made any offer to acquire the Tithe Barn on terms that restrict residential development and his position with the applicant has been consistent. <p>Mr Figgis has advised that:</p> <ul style="list-style-type: none"> • In relation to bullet point 1, his letter written to SDNPA dated 16 October 2016 was to give notification that an offer had been made to the applicant, however the actual offer was two days previously. The applicant responded to the offer by rejecting it, although that response had not been received at the time of writing the letter. • In relation to bullet point 3, the contract to purchase the Tithe Barn was not conditional on the withdrawal "of any legal challenge" but very specifically on the withdrawal of B2C3's Judicial Review. The agreement terminated on 10 October 2017 as a result of the Judicial Review not being withdrawn. Whilst it is true that the planning permission was quashed, the quashing was not a direct result of the agreement terminating and therefore it is not a fair reflection to link this in the same sentence as the 10 October termination of the agreement. • Regarding bullet point 4, Mr Figgis's letter dated 21 November 2017 stated that "SDNPA should treat the offer to buy the Tithe Barn in October 2016 as withdrawn, replaced with the attached redacted contract, and therefore [it] should not form part of the planning authority's reconsideration of planning permission". • In relation to bullet point 5, it is emphasised that the letter dated 21 February 2018 was withdrawn and therefore it is not understood why this letter forms part of the summary. • Regarding bullet point 6 it was on 16 March 2018 that Mr Figgis wrote to SDNPA withdrawing his letter of 21 February 2018. 	Update/ Clarification
9 (Cont)	84-85	8.28	Officers have had regard to these comments, however the clarification and corrections given do not change the overall recommendation given in relation to reason for refusal 1 of the planning and listed building consent applications as indicated on pages 88 and 89 of the Officer Report.	Update/ Clarification
9	88	Conclusion	Planning Application SDNP/17/00445/FUL SDNP/17/00554/FUL	Typing error

EXCERPT – MINUTES PLANNING COMMITTEE 12 APRIL 2018**ITEM 9: SDNP/I7/00554/FUL & SDNP/I7/00595/LIS MANOR HOUSE, BURITON**

1035. The Case Officer presented the report and referred the Committee to the April 2018 Update Sheet and referenced the tabled information with regard to a late communication from Hampshire Buildings Preservation Trust.
1036. The following public speakers addressed the Committee:
- Ian Johnston spoke against the application representing B2C3 Ltd.
 - Tricia Newby spoke against the application representing Buriton Parish Council.
 - Richard Marks spoke against the application on behalf of St Mary's Church and Buriton Village Design Statement group.
 - Janet Long spoke in support of the application on behalf of Planit Consulting, the Agent for the application.
1037. The Committee considered the report by the Director of Planning (Report PC20/18), the public speakers comments and requested clarification on the following:
- Whether deferment, as suggested by one of the Public Speakers, was an option for this proposal.
 - If viability for the Tithe Barn to be used as a community event venue had been explored fully.
 - Clarification on the definition of public benefit in relation to the conservation of the fabric of the building.
 - If the Dark Night Skies (DNS) Officer had been re-consulted for this application given the scale of glazing proposed for the developments.
 - Whether the concerns over the potential risk to DNS status could be effectively dealt with by condition and enforced if the conditions were not met.
 - If this site could be deemed to be exceptional given the pinch point location of the development within the DNS reserve.
 - Confirmation of the location of the two pieces of land included within the red line that were not to be developed.
 - Whether the route through the car park was a right of way or owned by the applicant.
 - Query as to why these were being considered together when there were three very different proposals within the one application.
 - The timeline of the previous committee decision in relation to the designation of the DNS reserve.
 - Clarification on car-parking designation should the Tithe Barn retain its current use.
 - Whether the only change to the report since the Judicial Review was the issue with ecology.
1038. In response to questions, Officers clarified:
- A decision by the Committee would provide certainty on a number of matters that required guidance and clarity. Should further investigations take place which might necessitate a change from the Tithe Barn being proposed as a residential dwelling to being proposed as ancillary to the Manor House, this could not be dealt with under the current application as the Manor House falls outside of the red line of the application site.
 - The Authority had conceded the Judicial Review on one ground being that it could be argued that the Authority had not given due consideration to the use of the Tithe Barn as ancillary to the Manor House as the Optimum Viable Use. Subsequently, the

Committee needed to reconsider the application. All information along with the current planning policy position had been thoroughly reviewed by Officers in making their recommendation. The conclusion of the applicant that the change of use to a residential dwelling was the OVU had not been sufficiently proved, given that it had not been demonstrated that the use ancillary to the Manor House had been sufficiently explored.

- That this area was not so exceptional that DNS could not be adequately mitigated by conditions. The DNS Officer's comments from the previous report still stood, as when the Committee considered the application previously DNS designation had been in place for almost a year. Information within Appendix 4 of the Officer report was still relevant.
- Officer attention, in relation to light spillage, had focussed on the glazing for the garage development and the emerging policy SD28. There was a potential conflict between preserving historic impact and development. The use of low transmission glazing was a matter to be weighed up by the Committee in making their decision.
- The Officer referred the Committee to the government's guidance on Planning Practice Guidance of Public Benefit detailed within the presentation.
- Areas within the red line that were to remain unaffected were the paddock area and the garden area.
- Car parking and vehicular movements had been considered within previous applications. An Appeal Inspector had expressed concern and refused permission based on additional activity from dwellings along the southern part of the site. However the appeal decision had been made when the Tithe Barn was being used for weddings. This issue would fall away if the extant use of the Tithe Barn for weddings/events were to be relinquished as proposed through this application.
- The Monks Walk and garage part of the application was acceptable in highway terms only if the current use of the Tithe Barn was relinquished.
- There had been clear indication previously that a master plan for the whole development would be the appropriate course of action, hence the application being submitted as a whole.
- The southern access was a lawful private right of access for these and other buildings.
- Conditions had been used in the past in relation to DNS and Officers were happy that they could be enforced, the comments of the DNS experts had not changed. As there had been no additional comments from the DNS Officers the Committee were advised of the risks if they were to add this as a reason for refusal. The only change was within the Village Design Statement and related to the use of roof lights, not glazing.

1039. The Senior Solicitor advised the Committee with regard to a question on judicial review, that the whole decision could be quashed even if the Authority erred on only one ground, should a judicial review follow.

1040. The Committee moved into the debate and commented:

- Works on the Monks Walk and garage development were already being undertaken, despite no approval of the scheme.
- The Village Design Statement had changed with a new emphasis on DNS and stated that roof lights were inappropriate.
- There was a lack of coherence between the different elements of the one application.
- There was confusion between Buriton Manor and viability, whilst there were three reasons for refusal OVU was key, as ecology issues and the absence of a legal agreement securing the relinquishment of rights could be resolved.
- Concern that the proposal would threaten DNS designation. The potential harm to DNS status should be included as a reason for refusal and that this site should be treated as exceptional.

- Concern that DNS conditions would be hard to enforce effectively and the reliance on unproven technology to control the light spillage.
 - There was a lack of clarity and uncertainty with many issues in the proposal and the impact of one development against another meant they should be considered as a whole.
 - The reasons for refusal were valid.
 - Concern that the B2C3 Ltd proposal would still be intrusive.
 - There was concern that not all options had been fully explored in terms of business viability or that alternative venues had been considered.
 - Concern with the red line of the development and the potential impact on the boundary of the Manor House.
 - There were still issues that were unresolved and had not been clarified by the applicant. The previous decision had been quashed due to uncertainty which still remained.
 - Deferment was not appropriate, a decision needed to be made to give clarity.
- I041. It was proposed and seconded to vote on the addition of a further reason for refusal within the recommendation relating to the potential risk to DNS designation and the restriction of roof lights in this part of the DNS reserve. The Committee voted against the proposal with one abstention from Gary Marsh.
- I042. The Director of Planning summarised the conclusions of officers as set out in the committee report.
- I043. It was proposed and seconded to amend the wording of paragraph 1 in section 10.1 of the report and paragraph 1 in section 10.2 of the report to replace 'confirming' with 'indicating'.
- I044. It was proposed to vote on the Officer's recommendation with the amended wording. The Committee agreed the recommendation with an abstention from Gary Marsh.
- I045. **RESOLVED:**
1. That planning permission SDNP/17/00554/FUL be refused for the reasons set out, with the amendment to the wording of paragraph 1 of section 10.1 of the report.
 2. That listed building consent SDNP/17/00595/LIIS be refused for the reasons set out, with the amendment to the wording of paragraph 1 of section 10.2 of the report.