

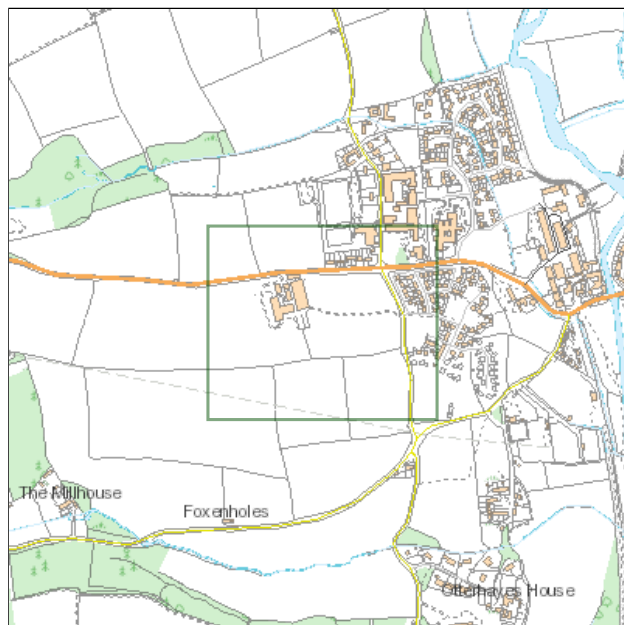
**Ward** Ottery St Mary

**Reference** 21/1860/FUL

**Applicant** Mr Martin Nancekivell

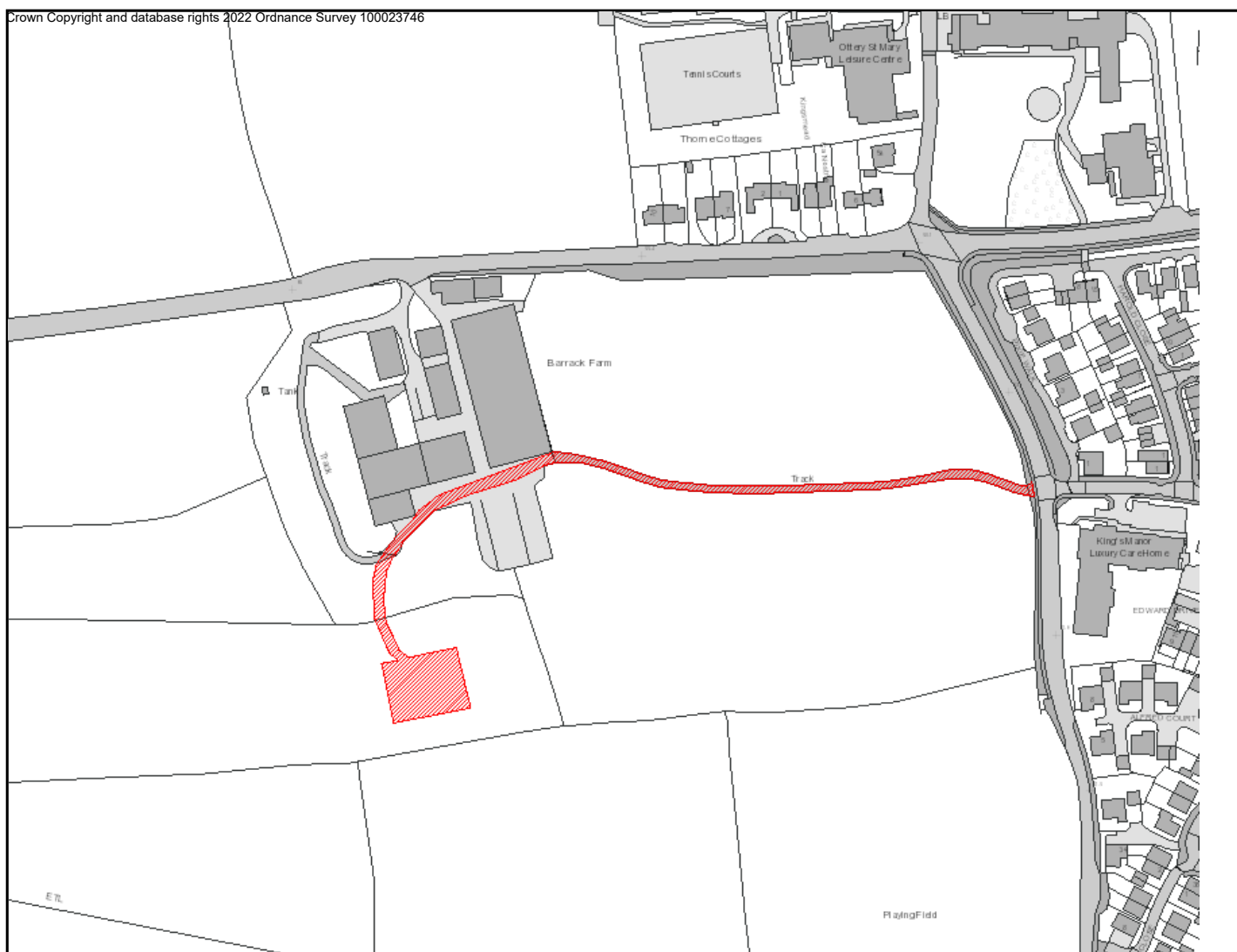
**Location** Barrack Farm Exeter Road Ottery St Mary EX11 1LE

**Proposal** Two storey, 4-bed, detached, principle farm house with associated parking and amenity space.



## RECOMMENDATION: Refusal

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		<b>Committee Date: 13<sup>th</sup> April 2022</b>
<b>Ottery St Mary (Ottery St Mary)</b>	<b>21/1860/FUL</b>	<b>Target Date: 13.10.2021</b>
<b>Applicant:</b>	<b>Mr Martin Nancekivell</b>	
<b>Location:</b>	<b>Barrack Farm Exeter Road</b>	
<b>Proposal:</b>	<b>Two storey, 4-bed, detached, principle farm house with associated parking and amenity space.</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application is before Members as the officer recommendation differs from that of two ward members.**

**The application site relates to land at Barrack Farm. The holding is located on the western side of Ottery St Mary and accessed off Exeter Road and the road from Kings School to Salston Corner. The farm operates alongside Gosford Pines Farm as part of the Luxton's Dairy business.**

**The application seeks permission for the construction of dwelling located south of the existing cluster of agricultural building to be occupied by the applicant to assist in the day to day running of the agricultural unit at Barrack Farm.**

**Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the East Devon Local Plan 2013 - 2031 sets a strict set of criteria that proposals must fully satisfy in order to be granted permission. As such the principle of development is accepted subject to the application meeting the various requirements of Policy H4.**

**The submitted agricultural appraisal details the herd consists of 650 individuals. Approximately 400 of these are located at Barrack Farm and comprise of mixture of young calves, young dairy stock, dairy heifers and beef finishers. The applicant has sought to emphasize that Barrack Farm, although connected to Gosford Pines Farm under the umbrella of Luxtons Dairy, it is operated as a separate farm, has a significant amount of livestock on site and associated infrastructure to accommodate them.**

**The Local Authority has had the applicant's agricultural appraisal independently assessed by an agricultural consultant. The appraisal has identified a number of requirements for the day to day management of the herd at Barrack Farm in**

addition to a number of benefits to the running of the dairy business that an onsite dwelling would provide.

In addition, Criteria 1 of Policy H4 (Dwellings for Persons Employed in Rural Businesses) requires that dwellings should be commensurate with the established functional requirement of the unit. Dwellings that are unusually large in relation to the agricultural needs of the unit, or unusually expensive to construct in relation to the income that it can sustain in the long term should not be permitted. The Local Planning Authority also has a duty of care to ensure that if any tied dwellings permitted were ever sold on that these should be financially obtainable to a farmer wishing to take on the site.

The submitted floor plans indicate a build with an overall floorspace of 361m<sup>2</sup>. The four bedroom dwelling allocates space to assist in the day to day running of the farm including a boot room (5.3sqm), farm office (8.5sqm) and meeting room (20sqm). However omitting this space from the dwelling still results in a large property.

Despite ongoing discussions with the applicant, it is the position of officers that the application has failed to justify the size of the proposed dwelling in terms of the needs of the agricultural unit itself or to demonstrate that the scale would be commensurate with the functional requirement of the farm.

On the basis of the information submitted, the Local Planning Authority is not satisfied that the size of the proposed dwelling would be commensurate with the established functional requirement of the agricultural unit that it would serve. As a consequence, the proposal would be contrary to the provisions of Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the East Devon Local Plan.

## **CONSULTATIONS**

### **Local Consultations**

#### **Parish/Town Council**

Town Council Comments:

The Town Council supports this application subject to following the advice of Stephen Reed, DCC Senior Historic Environment Officer. The request for a Written Scheme of Investigation (WSI) was added to the Planning Portal on the day of the Ottery Town Council Planning Meeting and had not been seen by the applicant or by the Councilors except Cllr Richard Grainger. The applicant was present at the meeting and agreed to obtain a report.

The Town Council would require the imposition of an agricultural tie as per the application.

#### **Ottery St Mary – Cllr Geoff Pratt**

This matter will go before the planning committee on 13th April and is recommended for Refusal which differs from the recommendations by two Ward members.

Your recommendation is based on the provision contained in Policy H4 of the current

Local Plan (page189) under para 1 due to the size of the proposed dwelling not being commensurate with the scale of the established functional need.

In addition to para 1 above under para 2 of Policy H4 the Rural business must demonstrate it has clear prospects for remaining commercially viable. However the site of Barrack Farm has been assessed under a HELAA submission by the applicant to consider its scope for accommodating future development..The proposed site at Barrack Farm is for 200 hundred homes and 1ha of employment land . Further, planning officers working on the forthcoming Local Plan have confirmed the site at Barrack Farm as offering realistic potential to provide for the future growth of the town. It would appear that the applicant has development plans for the future at Barrack Farm which do not fully satisfy the provisions of Policy H4 para 2.

I believe that the above provisions of Para 2 as they relate to the above Development proposals should be mentioned in your report and I would be grateful if you would consider this as there are a number of members of the Planning Committee who are also members of the Strategic Planning Committee who will be aware of this matter of future development.

Ottery St Mary - Cllr Peter Faithfull

Dear Planning Central Team

This application is in my ward and my preliminary view, based on the information presently available to me is that it should be approved.

This application is for a farm house next to a substantial number of farm buildings. I support the application on the condition that the house is tied to the farm and not an individual house in its own right. I also support the comments regarding archeology, but am not aware of any historic structures on that site, the farm buildings all being relatively recent and not showing on early Ordnance Survey maps.

These are my views based on the information presently available. I reserve my right to change my views in the event that further information becomes available to me.

Ottery St Mary - Cllr Vicky Johns

With the information I have been provided I support this application on the proviso that an agriculture tie is put in place for the property to ensure that the property can not be sold off separately and will need to be used only for people working on the farm. I would also like to ensure that the archeological guidelines are followed to ensure that no significant sites are damaged. I withhold my right to change my view if further information comes to light.

### **Technical Consultations**

DCC Historic Environment Officer

Dear Sir/Madam,

Application No. 21/1860/FUL

Barrack Farm Exeter Road Ottery St Mary EX11 1LE - Two storey, 4-bed, detached, principle farm house with associated parking and amenity space: Historic Environment

My ref: Arch/DM/ED/36880a

I refer to the above application. The proposed development lies in an area of archaeological potential with regard to prehistoric activity recorded in the county historic environment record in the surrounding landscape. In addition, there is the potential for the site to contain archaeological and artefactual evidence associated with the early 19th century army barracks thought to have occupied this area and indicated by the "barrack" place name here. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. The impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

The Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2021) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'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 investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.'

#### Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work as taking the form of the archaeological supervision of all groundworks associated with the construction of the

proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

#### Other Representations

None

### **PLANNING HISTORY**

Reference	Description	Decision	Date
91/P0169	Improve existing slurry store construct dirty water storage install irrigation system	Approval with conditions	09.04.1991
10/0827/FUL	Extension to cattle barn and demolition of existing barns.	Approval with conditions	21.06.2010

### **POLICIES**

#### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

H4 (Dwellings for Persons Employed in Rural Businesses)

EN7 (Proposals Affecting Sites which may potentially be of Archaeological Importance)

EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC9 (Parking Provision in New Development)

#### Ottery St Mary and West Hill Neighbourhood Plan

NP2 Sensitive, High Quality Design

NP4 Settlement Containment

NP9 Accessible Developments

## **Site Location and Description**

The agricultural holding at Barrack Farm is run by Luxton's Dairy which first established as a pig farm in the 1950s. The dairy business has expanded considerably since and now covers an area of 600 acres and comprises of two farm units, the other at Gosford Pines which is located approximately 2 Km north of Ottery St Mary. The business now handles a herd of 650 cattle of various ages some used for dairy stock the other as beef stock.

The application site is located approximately 1.3km west of Ottery St Mary Town Centre and is accessed off Exeter Road. The application is located outside the Built-Up Area for Ottery St Mary, however the land itself is not subject of any special designation.

For information, this part of the farm and wider site have been put forward for residential development as part of the Call for Sites for the New Local Plan. However, as this is at a very early stage of production, it carries no weight in the decision making process on this application.

## **Proposed Development**

The application seeks permission for the construction of dwelling located south of the existing cluster of agricultural building to be occupied by the applicant to assist in the day to day running of the agricultural unit at Barrack Farm. The build would be two storey in height with pitched roofs and gable ends. The build would be finished in brick and render with a tiled roof and UPVC openings and rainwater goods.

## **ANALYSIS**

The following issues are considered material in the assessment of this planning application;

- Principle of Development.
- Impact on character and appearance of the area.

These shall be discussed in turn below.

## **Principle of Development**

The spatial strategy for development is focused around the seven main towns and larger villages with built up area boundaries, as described by Strategy 27, will form focal points for development. However, the proposed site is not included within such a settlement and therefore is not considered to have an appropriate level of services and facilities to support residential development. Therefore, for planning purposes, the proposal takes place within a countryside location and therefore subject to restrictive rural policies.

Strategy 7 (Development in the Countryside) of the East Devon Local Plan states that development in the countryside will only be permitted where it is in accordance with a specific Local Plan or Neighbourhood Plan policy that explicitly permits such

development and where it would not harm the distinctive landscape qualities within which it is situated.

Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the East Devon Local Plan 2013 - 2031 sets a strict set of criteria that proposals must fully satisfy in order to be granted permission. As such the principle of development is accepted subject to the application meeting the various requirements of Policy H4, these shall be considered in turn below.

- 1. There is a proven and essential agricultural or forestry or rural business need for the occupier of the proposed dwelling to be housed permanently on the unit or in the specific rural location for functional reasons and the size of the proposed dwelling is commensurate with the scale of the established functional need. Where this need is unproven or a new business is being established a temporary dwelling (such as a mobile home) may be permitted to allow time to establish that there is a genuine functional and financial need for a permanent dwelling. A temporary dwelling will normally be permitted for a period of three years, subject to meeting relevant criteria detailed below.*

An Agricultural Appraisal has been submitted in support of the application that states the herd consists of 650 individuals. Approximately 400 of these are located at Barrack Farm and comprise of mixture of young calves, young dairy stock, dairy heifers and beef finishers. The applicant has sought to emphasize that Barrack Farm, although connected to Gosford Pines Farm under the umbrella of Luxton's Dairy, it is operated as a separate farm, has a significant amount of livestock on site and associated infrastructure to accommodate them.

The Local Authority has had the applicant's agricultural appraisal independently assessed by an external consultant. The appraisal has identified a number of requirements for the day to day management of the herd at Barrack Farm in addition to a number of benefits to the running of the dairy business that an onsite dwelling would provide.

To attend the welfare of the animals in order for the applicant to meet the legal responsibilities of the farm owner. At Barrack Farm these are summarised as follows;

- General Husbandry of livestock
- Checking water troughs
- Checking oestrus cycles in breeding heifers
- Feeding
- Pushing in feed
- Routine vet visits.

An on-site presence would also reduce incidences where individuals have been lost due to accidents or sickness. Further losses to the herd would also be avoidable through increased monitoring of young calves. Being able to identify animals on heat and an early stage leads to improved performance of the herd and is considered to be something only achievable with a 24 hour onsite presence.



Whilst improved security is not a reason to justify the need for worker's dwelling, in this case it has been identified that the applicant has experienced loss of fuel, tools and instances of arson on three separate occasions. It is felt by the applicant that the proposed dwelling would act as a deterrent to these types of acts and also improve biosecurity.

Owing to the significant number of livestock, the day to day requirements of the herd and general needs of the holding it is accepted that there is a need for a full time worker on site and therefore the need for additional accommodation is accepted.

Despite this, criteria 1 also requires that dwellings should be commensurate with the established functional requirement of the unit. Dwellings that are unusually large in relation to the agricultural needs of the unit, or unusually expensive to construct in relation to the income that it can sustain in the long term should not be permitted. The Local Planning Authority also has a duty of care to ensure that if any tied dwellings permitted were ever sold on in the future that these should be financially obtainable to a farmer wishing to take on the site.

The submitted floor plans indicate a build with an overall floorspace of 361m<sup>2</sup>. The four bedroom dwelling allocates space to assist in the day to day running of the farm including a boot room (5.3sqm), farm office (8.5sqm) and meeting room (20sqm). However omitting this space from the dwelling still results in a large property.

Concerns over the size of the dwelling were relayed to the applicant who, in rebuttal, has emphasized the sheer scale of the operation at Barrack Farm and the value of fixed tangible assets and livestock. However there has been little attempt to justify the size of the proposed dwelling in terms of the needs of the agricultural unit itself or to demonstrate that the scale would be commensurate with the functional requirement of the farm.

It is acknowledged that throughout the submission and subsequent conversations with the applicant that the house would also accommodate his two children who are the fifth generation in line to take on the business. Whilst it considered reasonable to entertain a scale of dwelling that would allow the applicant to accommodate room for his immediate family, the resulting floor space is excessive for a four bedroom property for the purposes of meeting the stated functional need.

As a general guide, a maximum of 200sqm is usually accepted for additional agricultural workers dwelling, a not inconsiderable size in itself and adequate to house the applicant and his family.

As stated above, allowing a dwelling of the scale proposed is not justified, and would make it very difficult for the dwelling to be passed on to other agricultural workers should it no longer be required at this farm. This size of dwelling is far in excess of something commensurate with the functional need established for 1 additional worker on site.

This is a principal consideration in assessing the merits of agricultural dwelling size and, in the absence of any strong evidence or case to support a dwelling of the size proposed, it is thought that the proposal is poorly justified and therefore objectionable on this ground.

2. *In the case of a permanent dwelling, the rural business has been operational for a minimum of three years, it is demonstrable that it is commercially viable and has clear prospects for remaining so.*

Business accounts from Luxton's Dairy have been submitted for consideration. The business is clearly profitable and the accounts suggest that it will remain to do so for the foreseeable future. Additionally it is also the position that the business could support the construction of a dwelling. It is pertinent to note here that construction of a dwelling at 361sqm will be considerably more costly than a 200sqm dwelling and therefore add un-necessary additional pressure on the farm finances.

Whilst a Ward Member has rightly pointed out that the wider site has been put forward for residential development as part of the New Local Plan, this carries no weight at present, and whilst this may indicate that there will not be a need for a second dwelling at the farm should the land be developed, the decision needs to be made on the basis of the current planning situation and policies.

3. *In the case of a temporary dwelling, a financial assessment, specifically in the form of a business plan setting out projected future operations, must demonstrate future operational viability.*

The application is proposing a permanent dwelling. No business plan required.

4. *The qualifying test of occupancy must involve at least one occupant being employed full time in the relevant rural business. Two occupants in partnership can meet the condition so long as their joint weekly hours equate to a full working week*

It is understood that Mr Nancekivell, the applicant, and his family would occupy the dwelling. Additionally it is stated on page 16, at Appendix B, that the number of cattle housed at Barrack Farm equates to 2.14 labour units. As such this criteria is considered to be met.

5. *There are no buildings on the operational holding suitable for conversion to meet the residential need or exiting dwellings available now or likely to be available within a nearby location or settlement. Sale within the last three years of any dwellings or buildings suitable for conversion will be taken into account and will count against 'need' in the assessment carried out.*

All current agricultural buildings are currently utilised for the running of the dairy business. There are none on site that are disused. In this case, owing to the various roles under criteria 1, there is considered to be an identified functional need for the presence of a worker onsite.

The applicant was prompted to demonstrate why the essential need could not be met by his current residence at Gerway Farm. The response detailed that currently the

application site is left unattended for 14 hours a day. During night time hours issues crop up like bullying, breaking drinkers, getting stuck in gates/barriers, monitoring pregnant heifers, calving, pushing up feed, breaking out and illness. Regular inspections at the quietest ends of the day are the best times to observe and take note of this and finding out which heifers are showing signs of heat for getting the timing right for breeding.

Owing to the level of livestock present at Barrack Farm and the associated day to day requirements of the herd it has been established that there is a functional need to meet the equivalent of 2.14 labour units. As such, in order for the business to maintain a high standard of welfare the applicant argues that the need could only be met by an onsite dwelling. Whilst it is concluded that the applicant's current residence at Gerway Farm is not suitable, and that there are no other buildings on the farm to meet the need, officers are not convinced that there are no properties available within Ottery St Mary that could meet this need given how close the site is to the built-up area boundary. However, on balance, and given that Officers are unsure that they would be able to justify a refusal of permission on this ground, the benefit of the doubt in terms of needing to be on site is being given to the applicant.

*6. Any permission granted will be subject to an occupancy condition tying it to the relevant business on the proposed dwelling and where appropriate, any existing dwelling on the farm holding*

A willingness to accept an agricultural occupancy restriction condition, in the event of a resolution to grant permission for the proposed dwelling, has been indicated by the applicants' agent.

However on the basis of the information submitted, the local planning authority is not satisfied that the dwelling would be commensurate with the established functional requirement of the agricultural unit it would serve and as such the proposal is contrary to Policy H4.

### **Impact on Character and Appearance of the Area**

The proposed dwelling is proposed to be sited south of the existing group of agricultural buildings. Further correspondence submitted by the applicant has emphasized that the chosen location provides good visibility over the main working areas whilst provided a degree of relief from the existing cluster of existing barns and silage clamps to enable further expansion of the farm and to allow large machinery to navigate through the site. The applicant has also noted that machinery is also parked and stored at this end of the farm when not in use.

The Location Plan indicates that the dwelling would utilise an existing access and track off the road between Kings School Cross and Salston Corner. From here the existing farm buildings and silage clamps are visible. The application building would be located south of the silage clamps and be offered some screening by a mature hedgerow immediately to the east. However the land does gently rise to the south and therefore the roof pitch and upper part of the gable end of the east elevation may protrude slightly above the height of the hedgerow.

Views of the site and application building from West Hill Road are largely unavailable due to the local topography. However as you travel east towards 2 Salston Cottages and Strawberry Lane partial views of the large livestock building at Barrack Farm are available. Despite this, the application building is to be sited south west of this barn where a number of large mature trees would offer the dwelling a degree of screening.

Exeter Road is subject to high footfall of traffic and is an arterial route into Ottery St Mary. However the road is tightly bordered by established devon banks and hedgerow. In particular the hedgerow that borders the southern side of the road is significant in height, dense and prevents any direct sight of the farm buildings owned by the applicant and it is anticipated that road users would be unable to see the proposed dwelling.

The application form indicates that the dwelling shall be constructed of brick and render with a slate or tile roof. Whilst the use of such materials is considered acceptable, further information and samples shall need to be submitted prior to commencement.

Overall, despite the proposed build being located on slightly elevated land within the site, owing to limited public view of the build, the subsequent visual impact is considered to be very low.

### **Habitat Regulations Assessment and Appropriate Assessment**

The nature of this application and its location close to the Pebblebed Heaths and its European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of this designation. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured. On this basis, and as the joint authorities are working in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

### **Archaeology**

The proposed development lies in an area of archaeological potential in a landscape containing evidence of prehistoric activity as well as iron extraction industry that operated on the Blackdown Hills from the Roman and medieval periods. The Historic Environment Records indicates the site lies in proximity to earthworks that may be indicative of either prehistoric funerary activity or may represent later mining activity associated with the iron ore mining industry here. As such, groundworks for the

construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. The impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

### **Other Matters**

- Surface Water shall be dealt with via a soakaway. There is considered ample space on site in order to install this.
- Foul sewage shall be dealt with via a septic tank. The submitted FDA1 form indicates this shall be a new system shall discharge into a drainage field.
- Occupants shall utilise an existing access. Parking and turning shall be provided within the site.

### **CONCLUSION**

Whilst the functional need for an onsite worker has been accepted, the local planning authority is not satisfied that the dwelling size would be commensurate with the established functional requirement of the agricultural unit it would serve.

The applicant is aware of these concerns and in response has highlighted a number of planning applications that have secured permission for the provision of dwellings, in some cases larger than the current proposal, on other farms. However, without going into specific detail on each case, some of the scheme's put forward benefited from permitted development rights under Class Q of the General Permitted Development Order. Subsequent to the findings of the judge in *Mansell v. Tonbridge* it has been established that the prior approval process can be considered a realistic fall-back and be given weight in determining a planning application. The current scheme does not benefit from a Class Q fall-back.

Some applications were also considered against Policy D8 (Re-use of Rural Buildings Outside of Settlements) of the Local Plan as the proposal was a conversion rather than the construction of a new build subject of an agricultural tie under Policy H4. These policies, whilst allow residential growth in countryside locations, have very different criteria to satisfy and therefore are not directly comparable.

The applicant has also provided two examples at sites within the locality where a second agricultural workers dwelling has been approved on the basis of fewer livestock at the respective farms. One of the applications at New Park Farm, whilst technically for a second dwelling, the agricultural appraisal put forward in that case that a new dwelling was required as the existing occupants within the existing house were in the stages of retiring. There is case law on the matter of whether or not a dwelling can reasonably be considered to be available. The key High Court judgments regarding this are *Keen v. Secretary of State for the Environment and Aylesbury Vale District Council* (1996), the approach within which was confirmed in *JR Cussons and Son v. Secretary of State for Communities and Local Government* (2008). Both judgments made it clear that it is necessary to test whether there is accommodation which is both suitable and available and, where there is existing accommodation, it

must be subject to scrutiny as to whether it can reasonably be held to be available. It is insufficient for accommodation to merely exist. At New Park Farm, whilst they secured permission for a second dwelling, this was to meet an existing functional need that could no longer be met by the existing occupants of the exiting farmhouse.

Another application at Barnfield Farm obtained consent for a provision of a caravan for an agricultural worker in addition to the existing farmhouse. However, in this case the justification for a second dwelling was based on the farms evident expansion and also in part on the basis that the applicant's children would no longer be assisting in the day to day running of the farm. Additionally, whilst the number of livestock at the farm is slightly below the number at Barrack Farm the level of floor space proposed for the caravan and the existing farmhouse is still substantially below that of the application proposal.

Whilst it is considered that the above applications are not considered directly comparable to the current application, it is also relevant that each application should be determined on its own merits.

As such, despite the application being considered acceptable on all other grounds, the proposal fails to meet the requirements of Policy H4 owing to the proposed development's excessive scale. It is the position of officers that the application should be refused.

## **RECOMMENDATION**

1. Adopt the Appropriate Assessment
2. REFUSE for the following reasons:

1. On the basis of the information submitted, the Local Planning Authority is not satisfied that the size of the proposed dwelling would be commensurate with the established functional requirement of the agricultural unit that it would serve. As a consequence, the proposal would be contrary to the provisions of Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the East Devon Local Plan.

## **NOTE FOR APPLICANT**

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Plans relating to this application:

East & West	Proposed Elevation	18.08.21
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	Proposed Floor Plans	18.08.21
	Location Plan	18.08.21
North & South	Proposed Elevation	18.08.21
	Proposed roof plans	18.08.21

#### List of Background Papers

Application file, consultations and policy documents referred to in the report.