

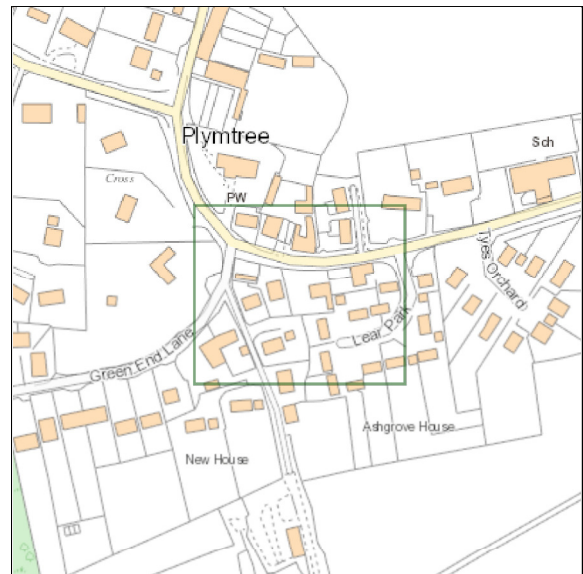
**Ward** Tale Vale

**Reference** 19/0394/FUL

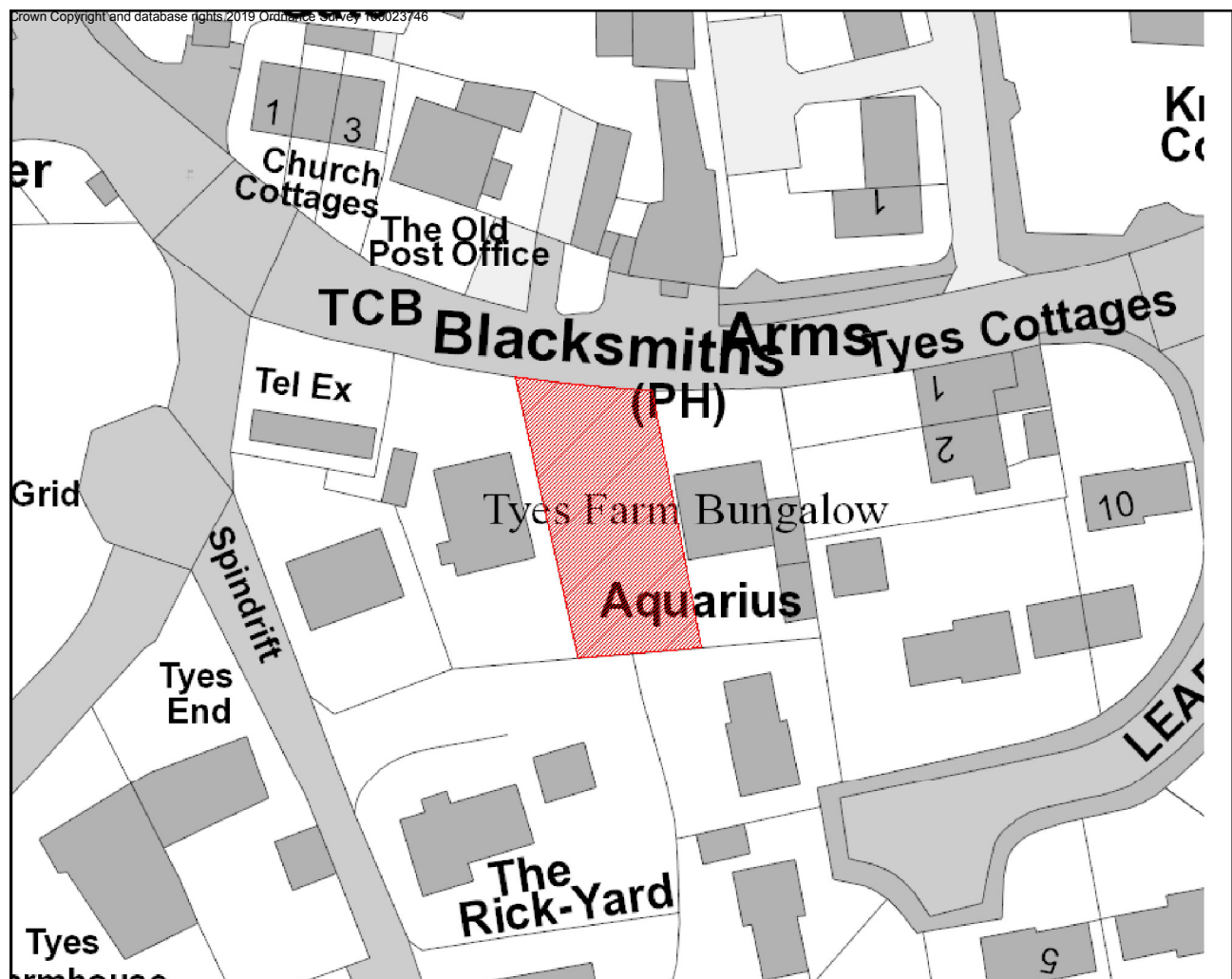
**Applicant** Mr & Mrs N Mason

**Location** Aquarius Plymtree Cullompton EX15 2JS

**Proposal** Erection of dwelling



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 11th June 2019</b>
<b>Tale Vale (Plymtree)</b>	<b>19/0394/FUL</b>	<b>Target Date: 29.04.2019</b>
<b>Applicant:</b>	<b>Mr &amp; Mrs N Mason</b>	
<b>Location:</b>	<b>Aquarius Plymtree</b>	
<b>Proposal:</b>	<b>Erection of dwelling</b>	

**RECOMMENDATION: Approval with conditions**

### **EXECUTIVE SUMMARY**

This application is before Members as the proposal represents a departure from the adopted development plan but is considered to be in accordance with guidance contained in the National Planning Policy Framework.

The site lies in the centre of the settlement of Plymtree which has few services for its inhabitants, as such during the drafting and adoption of the Local Plan it was considered that the lack of services meant that it was not a suitable location for housing growth, principally due to the need to travel by private motor vehicle to other settlements for shopping, leisure, healthcare etc making it an unsustainable location. As such Plymtree does not have a Built-up Area Boundary.

However, given an Inspectors comments on the previous application for the site in 2018 where the location was found to be sustainable in relation to the NPPF, the core of the village (rather than the whole settlement) is considered on balance to be sustainable. As such the principle of development in this location has been found to be acceptable on appeal and can be applied to this proposal.

The Inspector dismissed the appeal on the grounds of an unacceptable impact upon a neighbouring property and as such the design has been amended to an 'L' shaped room in the roof bungalow to take into account and address the previous concerns regarding the impact upon the living conditions of the occupier of the adjacent dwelling known as 'Tyes Bungalow'.

The access is considered acceptable and subject to appropriate conditions regarding landscaping the proposal is not considered to have a detrimental impact on its surroundings.

The proposed development is considered to be acceptable, taking into account the previous appeal decision and the amendments to the design and layout of the proposal within its plot the previous reasons for refusal have been overcome.

## **CONSULTATIONS**

### **Local Consultations**

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

The Parish Council has considered the revised and re-submitted plans for the plot adjacent to Aquarius Plymtree. It is considered that the new proposals represent an improvement on the previous submission, and that the Parish Council has no objection in principle.

We would, however, wish to ensure that there is a careful consideration of materials to be used to ensure the new property fits well within the street scene. It is noted that there would be no on-site turning for vehicles nor any formal entrance created other than a large break in the stone boundary wall. Full details of the access arrangements for entry and egress would be needed to ensure the proper setting is established for this important village centre location.

### **Technical Consultations**

#### **EDDC Trees**

Trees removed prior to application submission. If the application were to be approved it should be subject to landscaping condition to secure new tree planting.

#### **Other Representations**

3 letters of representation have been received, 2 raising concern and 1 in support

The objection letters raise the following concerns:

- Loss of light
- Loss of view
- Not in line with buildings in the road
- No on site turning
- Materials out of keeping with village

The letter of support suggests that the concerns raised in the previous application appear to have been overcome.

## **POLICIES**

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

Strategy 7 (Development in the Countryside)

Strategy 27 (Development at the Small Towns and Larger Villages)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN14 (Control of Pollution)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

EN9 (Development Affecting a Designated Heritage Asset)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2019)

National Planning Practice Guidance

#### **Relevant Planning History**

17/2022/FUL - Erection of a detached dwelling - refused for the following reasons:

1. The planning application site falls outside of the built up area boundary of any defined sustainable settlement or neighbourhood plan area and is therefore within the open countryside where residential development is restricted. As no other policy of the Local Plan facilitates the proposal this would result in sprawling development outside of sustainable settlements in conflict with the spatial approach to accommodate residential development within defined settlements as identified within the Local Plan. It is not considered that there are material circumstances to outweigh the adverse impacts of a residential use within this unsustainable location. Therefore the proposal is in conflict with Strategy 6 (Development within Built Up Area Boundaries), Strategy 7 (Development in the Countryside) and Policy TC2 (Accessibility of New Development) of the Adopted East Devon Local Plan 2013-2031 and the guidance in the National Planning Policy Framework.

2. By reason of its relative excessive height (based upon the street scene elevation provided as part of the application), scale and close proximity to the boundary of Tyes Farm Bungalow, the proposed dwelling would create a detrimental dominant and overbearing impact on the living conditions, blocking the light from habitable windows of, the occupiers of the aforementioned property and as such the proposal would be contrary to Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031

A written representations appeal was subsequently dismissed upholding reason 2 above but considering that the proposal was acceptable in relation to reason 1.

#### **Site Location and Description**

The site lies in the centre of the settlement of Plymtree towards the north of the district opposite the public house, the settlement pattern in this part of the village is relatively dense, and as a consequence the site is constrained in terms of its width being bound on either side by existing dwelling houses. To the east by the applicant's dwelling known as 'Aquarius' and to the west by a property known as 'Tyes Farm Bungalow'.

The village road passes the site to the south, there is currently no dedicated access to the application site.

### **Proposed Development**

This application seeks full planning permission for the erection of a detached dwelling that would take the form of a room in the roof bungalow together with a reduction in the ground level by 0.7 metres and construction of a new access from the public highway.

### **Assessment**

The main considerations in the determination of this application relate to the principle of the proposed development, the impact of the proposal on its surroundings and impact on highway safety.

### **Principle**

The site lies in the open countryside where all development should be strictly controlled so that it does not detrimentally impact upon the character and appearance of the surroundings and to reduce reliance upon the use of the car. However, that does not represent a bar on all development, as in accordance with Strategy 7 of the EDDC Local Plan, proposals that accord with other specific policies of the plan are acceptable in principle providing their impacts are also acceptable in relation to the development plan.

In this instance the site lies in the centre of the settlement of Plymtree which has few services for its inhabitants, as such during the compilation of the Local Plan it was considered that the lack of services meant that it was not a suitable location for housing growth, principally due to the need to travel by private motor vehicle to other settlements for shopping, leisure, healthcare etc making it an unsustainable location.

Accordingly the village is not one of those listed in Strategy 27 as being one which can support housing growth and as the proposal is for an open market dwelling there are no other policies in the plan that would support housing in this location. As such the proposal has been advertised as a departure from the development plan.

It must also be determined whether there are any material considerations that may indicate that the principle may be found to be acceptable. In this instance a previous application (17/2022/FUL) was refused in accordance with the above consideration of policies in the Local Plan, this decision was subsequently appealed where an Inspector found the following:

*'12. The appeal site is formed of garden land to the side of Aquarius, in the village of Plymtree. The site is outside of any built up area boundary and is therefore in the countryside, where Strategies 6 and 7 of the LP take a restrictive approach to new development. Policy TC2 of the LP seeks new development in locations that are accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car.*

*13. On my visit I saw that Plymtree's facilities include a primary school, post office and stores, village hall, two churches, public house and recreation field. Village noticeboards indicate that the facilities are well-utilised, with a range of groups and clubs in operation as well as visiting services such as a mobile library. The overall impression is of a small but vibrant rural community.*

*14. The appeal site is located in the centre of the village, and as such is in very close proximity to a number of Plymtree's amenities, including the public house and school. The village is fairly compact, and so the community shop, recreation field and village hall are also within a short walk or cycle. As a result, future occupiers of the proposed house would be able to access a reasonable range of everyday services without the need to travel by car.*

*15. I accept that future residents of the proposed house would be required to travel beyond the village to access some essential services such as a doctor's surgery, a wider range of shops and employment opportunities. Such facilities are available at the larger local centres of Cullompton, which is approximately 4 miles away, and Honiton, approximately 8 miles distant.*

*16. There is a bus stop a short walk from the appeal site from which a bus service runs three times a week to and from Honiton. A weekly bus service also runs to and from the city of Exeter. The train stations at Feniton and Whimble, both on the Exeter to London Waterloo line, are within an approximately 15 minute drive of the site, with the former also being connected to Plymtree by bus. Therefore, whilst recognising that many trips to larger local centres may be made by car, it is clear that future occupiers of the proposal would also have some opportunity to travel to nearby towns and beyond by non-car means. Therefore, the site performs relatively well against Policy TC2.*

*17. Being effectively an infill plot on garden land in the core of the village, the appeal development would not, to my mind, constitute sprawling development in the open countryside. Nor would it cause demonstrable harm to the distinctive landscape and environmental qualities which Strategies 6 and 7 of the LP seek to protect. Moreover, the proposed house would undoubtedly be located where it would enhance or maintain the vitality of this rural community, in accordance with paragraph 78 of the Framework.*

*18. On balance, and considering the LP as a whole, this leads me to conclude that the proposed development would provide a suitable site for housing, having regard to the proximity of services. I therefore find no conflict with Strategy 6, Strategy 7 or Policy TC2 of the LP insofar as they seek to protect the countryside and minimise the need to travel by car, or with the Framework.'*

The Inspectors interpretation of Policy TC2 in relation to this appeal is interesting as the Inspector considered that the proposal was acceptable as it complied with Policy TC2 as it was located close to a range of services and facilities. However, this ignores the background evidence to the location plan that established through Strategy 27 which settlements were located close to a range of services and facilities, and this excludes Plymtree.

In any case, it is matter to the current application that a previous Inspector found the principle of development on the site acceptable.

As such and with no amendments to Local Plan Policy, it must be concluded that, on balance, the proposal for the erection of a dwelling is acceptable in principle, being in a sustainable part of the village.

### **Impact on surroundings**

The site lies in the centre of the settlement opposite the public house, the settlement pattern in this part of the village is relatively dense, and as a consequence the site is constrained in terms of its width being bound on either side by existing dwelling houses. To the east by the applicant's dwelling known as 'Aquarius' and to the west by a property known as 'Tyes Farm Bungalow'.

The previous proposal was dismissed at appeal due to the impact of the proposed two storey dwelling on the amenity of the occupiers of the adjacent bungalow (Tyes Farm Bungalow) to the west of the proposal site, the amended proposal seeks permission for a room in the roof bungalow. In an attempt to reduce the mass and bulk of the proposal the ground level would be reduced by 0.7 metres so that it would be at a similar level to Tyes Farm Bungalow and the proposed property would be 'L' shaped to reduce the proximity of the dwelling to the windows on the side elevation. Whilst the ridge height of the proposal would be similar to the eaves of the previous proposal the window that would still be impacted upon is a secondary window to the living room which is also served by doors leading out onto a conservatory. Due to the orientation of the dwellings and the path of the sun, the secondary window would not lose total direct sunlight until the early evening and would still receive light due to the removal of the majority of the bulk directly on the boundary. As such it is considered that the second reason for refusal has been overcome to a sufficient extent to protect the amenity of the occupiers of Tyes Farm Bungalow.

The impact upon Aquarius would be lesser and with restrictions on glazing is not considered to be detrimental to the occupants or future occupants' amenity (notwithstanding the ownership by the applicant).

In terms of impact on the character and appearance of the area, the proposed dwelling would be in line with the existing properties, of a similar scale to Aquarius and using a pallet of materials that would not be alien to the surroundings and therefore acceptable.

### **Impact on highway safety**

Notwithstanding the limited public transport services serving the village the technical nature of the development is required to be considered. A new access would be formed directly onto the public highway with no turning available on plot, however, given that this is the situation for a number of other properties in the area and the relatively lightly trafficked nature of the highway, it is considered that there would not be a detrimental impact on highway safety in accordance with Policy TC7 of the EDDC Local Plan.

## **Trees**

A tree lies on the boundary of the site adjacent to Tyes Farm Bungalow, it is not covered by a preservation order and is not within a conservation area, and furthermore, its reasonable lifespan would be constrained by the fact that a large amount of the tree is overhanging / growing into the aforementioned property. Whilst no tree survey has been carried out it is considered that the loss of this tree would not be detrimental and on any approval a comprehensive landscaping scheme could be requested/conditioned.

## **Other issues**

Whilst Parish Council raise no objections to the proposal they do raise a number of concerns that have been addressed above.

There are listed buildings within the village, not in close proximity to the proposal site such that it is considered that the proposal would not detrimentally impact upon the setting of designated heritage assets in accordance with Policy EN9 of the EDDC Local Plan and the duty imposed under Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

## **CONCLUSION**

Although the proposal represents a departure from the Local Plan through the construction of a dwelling in a location that is not considered to be sustainable, an appeal decision on the site last year determined that despite this the site was located close to a range of services and facilities that an Inspector considered to be enough for the proposal to represent sustainable development.

Despite the proposal being contrary to Local Plan policy, as an Inspector determined last year that the principle was acceptable, this is material to the current application and the proposal can again be considered to be acceptable in principle due to the range of services and facilities available within the centre of Plymtree.

The Inspector dismissed the appeal on the grounds of an unacceptable impact upon a neighbouring property and as such the design has been amended to an 'L' shaped room in the roof bungalow to take into account and address the previous concerns regarding the impact upon the living conditions of the occupier of the adjacent dwelling known as 'Tyes Bungalow'.

As the proposal has addressed the reason that the Inspector dismissed the previous appeal on the site, the proposed development is considered to be acceptable.

## **RECOMMENDATION**

APPROVE subject to the following conditions:



1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works within the Schedule 2 Part 1 Classes A, B, C or E for the enlargement, improvement or other alterations to the dwellings or outbuildings hereby permitted, other than works that do not materially affect the external appearance of the buildings, shall be undertaken.  
(Reason - The space available would not permit such additions without detriment to the character and appearance of the area or to the amenities of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
4. Prior to the occupation of the dwelling hereby approved that parking area at the front of the dwelling shall be completed and be capable of use and shall be retained thereafter for parking purposes only  
(Reason: To ensure that there is adequate parking provision for traffic attracted to the site in accordance with Policy TC9 of the East Devon Local Plan)
5. Notwithstanding the details provided, prior to occupation of the dwelling house hereby approved a detailed landscaping scheme shall be submitted to and approved in writing with the Local Planning Authority. For the avoidance of doubt the scheme shall include details for the planting of a replacement tree and shrubs on the frontage of the site (north west corner). The landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.  
(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031.)

#### NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

Plans relating to this application:

SLP/LAAP/2019 A	Location Plan	22.02.19
FFP/LAAP/2019 A : FIRST	Proposed Floor Plans	22.02.19
PFP/LAAP/2019 A	Proposed Floor Plans	22.02.19
PEM1/LAAP/201 9A	Proposed Elevation	22.02.19
PTSD/LAAP/201 9A : PROPOSED STREET VIEW	Other Plans	22.02.19
PSY/LAAP/2019 A	Proposed Site Plan	22.02.19

List of Background Papers

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