

**Agenda for consultative meeting of the
Planning Committee
Wednesday, 4th August, 2021, 10.00 am**



Members of Planning Committee

Councillors E Wragg (Chair), S Chamberlain (Vice-Chair),
K Bloxham, C Brown, O Davey, B De Saram,
S Gazzard, M Howe, D Key, R Lawrence,
G Pook, G Pratt, P Skinner, J Whibley,
T Woodward and C Wright

East Devon District Council
Border House
Heathpark Industrial Park
Honiton
EX14 1EJ
DX 48808 HONITON
Tel: 01404 515616

Venue: Online via the zoom app

www.eastdevon.gov.uk

Contact: Wendy Harris, Democratic Services Officer
01395 517542; email
wharris@eastdevon.gov.uk

(or group number 01395 517546)

Issued: Friday, 23 July 2021; Re-issued Wednesday, 28 July 2021

**Important - this meeting will be conducted online and recorded by Zoom only.
Please do not attend Blackdown House.**

Members are asked to follow the [Protocol for Remote Meetings](#)

This meeting is being recorded by EDDC for subsequent publication on the Council's website and will be streamed live to the Council's Youtube Channel at
<https://www.youtube.com/channel/UCmNHQruge3LVl4hcgRnbwBw>

Speaking on planning applications

In order to speak on an application being considered by the Planning Committee you must have submitted written comments during the consultation stage of the application. Those that have commented on an application being considered by the Committee will receive a letter or email detailing the date and time of the meeting and instructions on how to register to speak. The letter/email will have a reference number, which you will need to provide in order to register. Speakers will have 3 minutes to make their representation.

The number of people that can speak on each application is limited to:

- Major applications – parish/town council representative, 5 supporters, 5 objectors and the applicant or agent
- Minor/Other applications – parish/town council representative, 2 supporters, 2 objectors and the applicant or agent

The day before the meeting a revised running order for the applications being considered by the Committee and the speakers' list will be posted on the council's website (agenda item 1 – speakers' list). Applications with registered speakers will be taken first.

Parish and town council representatives wishing to speak on an application are also required to pre-register in advance of the meeting. One representative can be registered to speak on behalf of the Council from 10am on Monday, 26 July 2021 up until 12 noon on Thursday, 29 July 2021 by leaving a message on 01395 517525 or emailing planningpublicspeaking@eastdevon.gov.uk.

Speaking on non-planning application items

A maximum of two speakers from the public are allowed to speak on agenda items that are not planning applications on which the Committee is making a decision (items on which you can register to speak will be highlighted on the agenda). Speakers will have 3 minutes to make their representation. You can register to speak on these items up until 12 noon, 3 working days before the meeting by emailing planningpublicspeaking@eastdevon.gov.uk or by phoning 01395 517525. A member of the Democratic Services Team will only contact you if your request to speak has been successful.

Between 27th July 2021 to 17th January 2022, the Council has delegated much of the decision making to officers. Any officer decisions arising from recommendations from a consultative meeting can be found here –

[Senior Officer Decision notices - East Devon](#).

1 Speakers' list and revised order for the applications (Pages 4 - 5)

Speakers' list and revised order for the applications.

2 Minutes of the previous meeting (Pages 6 - 9)

Minutes of the Planning Committee meeting held on 15 July 2021

3 Apologies

4 Declarations of interest

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

5 Matters of urgency

Information on [matters of urgency](#) is available online

6 Confidential/exempt item(s)

To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

7 Appeal status report 2020 - 2021 (Pages 10 - 14)

Update from the Development Manager

8 Planning appeal statistics (Pages 15 - 24)

Update from the Development Manager

Applications for Determination

- 9 **21/1058/FUL (Minor) - AXMINSTER** (Pages 25 - 42)
Rose Farm, Wyke, Axminster.
- 10 **21/0954/FUL (Minor) - DUNKESWELL & OTTERHEAD** (Pages 43 - 50)
61 Jenwood Road, Dunkeswell, Honiton.
- 11 **21/0587/FUL (Minor) EXMOUTH HALSDON** (Pages 51 - 66)
21 Hulham Road, Exmouth.
- 12 **21/1420/VAR (Minor) - HONITON ST MICHAELS** (Pages 67 - 76)
Unit 5, Weston Park, Devonshire Road, Healthpark Industrial Estate, Honiton.
- 13 **21/0891/FUL (Minor) - SEATON** (Pages 77 - 107)
Hook & Parrot Inn, East Walk, Seaton.
- 14 **21/1132/FUL (Minor) - SIDMOUTH SIDFORD** (Pages 108 - 122)
Land to the rear of Trow View, Two Bridges Road, Sidford, Sidmouth.

Please note:

Planning application details, including plans and representations received, can be viewed in full on the Council's [website](#).

Decision making and equalities

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

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EAST DEVON DISTRICT COUNCIL

Minutes of the meeting of Planning Committee held at Blackdown House, Honiton and online via the Zoom App on 15 July 2021

Attendance list at end of document

The meeting started at 10.00 am and ended at 12.53 pm. The meeting adjourned at 11.45 am and reconvened at 11.56 am.

15 Minutes of the previous meeting

The minutes of the Planning Committee meetings held on 9 June and 14 June 2021 were agreed as true records.

16 Declarations of interest

Minute 19. 21/0546/FUL (Minor) - CLYST VALLEY.

Councillor Mike Howe, Personal, Clyst Valley Ward Member.

Minute 20. 21/0709/FUL (Minor) - DUNKESWELL & OTTERHEAD.

Councillor David Key, Personal, Dunkeswell and Otterhead Ward Member.

Minute 21. 21/0860/FUL (Minor) - DUNKESWELL & OTTERHEAD.

Councillor David Key, Personal, Dunkeswell and Otterhead Ward Member.

17 Planning appeal statistics

The Committee noted the Strategic Lead – Planning Strategy and Development Management's report setting out a list of planning appeals lodged and seven appeal decisions notified since the last committee and was pleased to report that six had been dismissed with only one allowed.

Members' attention was drawn to the appeal allowed for planning application 20/1129/FUL – Greystones, Salcombe Regis, EX10 0JQ. With disappointment the Strategic Lead – Planning Strategy and Development Management referred to the Inspectorates decision to allow the appeal which reflected on the Inspectorates relaxed views on house extensions.

The Committee also noted the list of the current appeals in progress.

18 20/1841/FUL (Minor) - AXMINSTER

Applicant:

Mr S H Jaffar.

Location:

28A Foxhill, Axminster, EX13 5LT.

Proposal:

Alterations to parking layby approved under planning permission 16/2868/FUL to enable the parking of two cars.

RESOLVED:

Approved as per officer recommendation with an additional condition to require our agreement of the colour that the rendered wall is initially painted.

Members accepted that it would not be reasonable to control any future changes in colour but wanted to ensure that the initial finish is acceptable. The wording of the additional condition was delegated to the Service Lead in consultation with the Chair and Ward Members.

19 **21/0546/FUL (Minor) - CLYST VALLEY**

Applicant:

Miss D Self.

Location:

Newcourt Barton, Clyst Road, Topsham, EX3 0DB.

Proposal:

Change of use of land from agricultural to a gym (Use Class E (d)), to include the siting of containers (x3), tarpaulin covering and parking area.

RESOLVED:

Approved contrary to officer recommendation.

Members considered that the site is in a sustainable location and that the economic and social benefits of the development outweigh the conflict with policy. Conditions delegated to the Service Lead in consultation with the Chair of Planning Committee and the Ward Member but to include conditions controlling the use of the premises (Class E), details of landscaping to help screen the site, details of materials and finishes of the proposed containers etc.

20 **21/0709/FUL (Minor) - DUNKESWELL & OTTERHEAD**

Applicant:

Mrs Katie Hollyer

Location:

Smithenhayes Farm, Luppitt, Honiton, EX14 4TR.

Proposal:

Erection of one glamping cabin for holiday let purposes.

RESOLVED:

Approved contrary to officer recommendation.

Members considered that the economic benefits of the proposed holiday let justified a departure from policy. Conditions delegated to the Service Lead in consultation with the Chair of Planning Committee and the Ward Members but to include conditions controlling the holiday let use, materials, landscaping details and a travel plan to encourage users to use sustainable means of transport by promoting local public transport, walking and cycling routes etc.

21 **21/0860/FUL (Minor) - DUNKESWELL & OTTERHEAD**

Applicant:

Mrs Sally Quinn.

Location:

The Lanthorns, Sheldon, Honiton, EX14 4QU.

Proposal:

Change of use of ancillary accommodation to holiday let.

RESOLVED:

Approved contrary to officer recommendation.

Members considered that the economic benefits of the proposed holiday let and the need to make use of the redundant building justified a departure from policy. Conditions delegated to the Service Lead in consultation with the Chair of Planning Committee and the Ward Members but to include conditions controlling the holiday let use and additional landscaping of the boundary with Westmead Cottage to minimise any impacts on their amenity.

22 **21/0039/FUL (Minor) - FENITON**

Applicant:

Mr Raymond Borkowski.

Location:

Sunningdale, Buckerell, Honiton, EX14 3ER.

Proposal:

Replacement of existing dwelling and garage/workshop with new dwelling and garage with storage space.

RESOLVED:

Approved as per officer recommendation.

23 **21/0176/FUL (Minor) - HONITON ST MICHAELS**

Applicant:

Mr Christopher Stevens.

Location:

Combehayes Farm Bungalow, Honiton, EX14 9TS.

Proposal:

Change of use of land from agricultural to residential garden use and retention of summerhouse.

RESOLVED:

Approved as per officer recommendation.

24 **21/0135/FUL (Minor) - YARTY**

Applicant:

Mr & Mrs Lockett.

Location:

Crabbs Farm, Broom Lane, Tytherleigh, Axminster, EX13 7AZ.

Proposal:

Construction of garage to provide storage for specialist vehicles.

RESOLVED:

Approved as per officer recommendation.

Attendance List

Councillors present:

S Chamberlain (Vice-Chair)

K Bloxham

O Davey

B De Saram

S Gazzard

M Howe

D Key

R Lawrence

G Pook

G Pratt

J Whibley

T Woodward

T Wright

Councillors also present (for some or all the meeting)

P Arnott

C Brown

A Moulding

P Twiss

Officers in attendance:

Ed Freeman, Service Lead Planning Strategy and Development Management

Shirley Shaw, Planning Barrister

Wendy Harris, Democratic Services Officer

Sarah Jenkins, Democratic Services Officer

Councillor apologies:

E Wragg

P Skinner

I Hall

S Jackson

Chairman

Date:

Report to: **Planning Committee**

Date: 4th August 2021

Public Document: Yes

Exemption: None

Review date for release None



Subject: **Planning Appeals Status Report**

Purpose of report: The report is provided as an update on the current situation regarding planning appeal decisions and gives an overview of the results of planning appeals for the year from 1st April 2020 to 31st March 2021.

Recommendation: **That Members note the report**

Reason for recommendation: To ensure that Members are appraised of the Council's current performance in respect of planning appeal decisions.

Officer: Chris Rose – Development Manager – Planning Tel; 01395 517419
email CHRose@eastdevon.gov.uk

Financial implications: No additional financial implications other than those stated within the costs section within the body of the report.

Legal implications: There are no legal implications other than as set out within the report.

Equalities impact: Low Impact

Risk Low Risk

Links to background information: <https://www.gov.uk/government/statistics/planning-inspectorate-statistics>

1.0 Background

- 1.1 The performance indicator and figures assessed below includes only those appeals against the Council's decision to refuse planning permission. It does not include planning appeals against conditions or non-determinations. The calculation also excludes all other types of appeal e.g. advertisement appeals, enforcement appeals, lawful development certificate appeals, appeals in respect of prior approval applications and works to protected trees. A partially allowed appeal or a split decision is counted as an appeal allowed.
- 1.2 The calculation includes those decisions where the date of decision falls within the year in question, regardless of when the appeal was lodged.
- 1.3 The Council has received 44 appeal decisions from 1 April 2020 to 31 March 2021 which are subject to the performance indicator. This is not the total number of appeal decisions received, which includes all other types of appeal as stated above.

National appeal statistics (Figures taken from the latest Planning Inspectorate Statistical Report updated 20 May 2021)

Planning appeals including Householder Appeals (HAS)

Year	Decided	Allowed	% Allowed
2017 - 2018	15455	5201	33.7
2018 - 2019	14748	4736	32.1
2019 - 2020	17770	4815	27.1

East Devon appeal statistics

Planning appeals including householder appeals (HAS)

Year	Decided	Allowed	% Allowed
2017 - 2018	42	15	35.7
2018 - 2019	54	15	27.8
2019 - 2020	52	13	25.0
2020 - 2021	44	14	31.8

2.0 Analysis

- 2.1 The majority of the appeals were dealt with by means of written representations, with 43 having been determined on that basis. An Informal Hearing was held for 1 of the appeals. Included within the written representation appeals were 8 appeals which followed the householder appeal process (*appeals in respect of householder applications do not always follow this procedure; for example where there is a linked Listed Building Consent appeal*).
- 2.2 From the 44 decisions received 14 of the appeals were allowed which equates to 68.2% of appeals against the Council's decision to refuse planning permission being dismissed.
- 2.3 This figure is less than that for 2019 - 2020 and has fallen below the national average as published by the Planning Inspectorate in their statistics. The success rate has also fallen below the Council's performance indicator of 70% for dismissed appeals.
- 2.4 The figures need to be studied in more detail to establish whether there has been any significant change in the decision making process or if there is any particular trend which can be attributed to those decisions of the Council which were overturned.
- 2.5 Of the appeals which were allowed, 5 resulted from applications decided by the Planning Committee, 4 of which were refused contrary to officer recommendation. The other 9 appeals which were allowed resulted from delegated decisions.

2.6 Of the 30 appeals which were dismissed, 28 were the result of delegated decisions and 2 of the applications was decided by the Committee, following officer recommendations to refuse.

2.7 Appeal decisions by procedure type –

	Dismissed	Allowed	%Dismissed
Written Representation	29	14	67.4
Hearing	1	0	100.0

2.8 Appeal decisions by application type -

	Dismissed	Allowed	%Dismissed
Q13 Minor dwellings	19	5	79.0
Q21 Householder	4	4	50.0
Q18 All other minor developments	5	4	55.5
Q20 Change of use	1	1	50.0
Q12 All other small major developments	1	0	100.0

2.9 The largest sample of 24 decisions in respect of minor dwellings, produced a high success rate of 79% of appeals dismissed.

2.10 The next largest sample for all other minor developments produced a lower success rate of 55% dismissed from 9 decisions.

2.11 The success rate of householder appeals is low with 50% dismissed from 8 decisions.

2.12 The Council has performed well for appeals in respect of minor dwellings, however, there are no other particular trends which can be established from the decisions based on the application type and some of the samples are too small to represent a true indicator. Although there appears to be a continued difficulty in upholding refusal of planning permissions for house extensions unless the impacts are very significant/detrimental and 4 Committee overturns resulting in upheld appeals is high compared to historic numbers.

2.13 Appeals allowed -

14 Decisions, including:-

- 9 Delegated decisions
- 4 Committee decisions contrary to officer recommendation
- 14 Written representations
- 4 Householder applications
- 3 Single new residential dwellings
- 1 Change of use of residential dwelling and agricultural land to an educational facility to operate as an independent special school.

2.14 Appeals Dismissed -

30 Decisions, including:-

- 28 Delegated decisions
- 2 Committee decisions
- 29 Written representations
- 19 Minor dwellings

- 1 Informal hearing
- 4 Householder appeals

3.0 Costs Applications

- 3.1 There can be financial implications in relation to cases where an application for costs is made.
- 3.2 Applications for an award of costs can be made by either party in respect of all appeals. An award of costs will only succeed in the event that the Inspector determining the appeal had considered that a party had acted unreasonably.
- 3.3 If a planning application is refused, the reasons given have to be both justified and defendable. It is most likely that an application for an award of costs against the Council would be successful, in cases where an appeal is lodged and the reasons for refusal cannot be substantiated.
- 3.4 The Inspector determining an appeal can award costs against either party, with or without an application for costs having been made, if it is considered that unreasonable behaviour has occurred.
- 3.5 There has been 6 applications for full awards of appeal costs against the Council and all 6 of these applications were refused.

4.0 Summary of other appeal decisions

- 4.1 The following appeal decisions are not included in those appeals subject of the performance indicator.
- 4.2 From five appeals in respect of enforcement notices four were dismissed and the enforcement notices upheld.
- 4.3 From four appeals against the refusal to issue certificates of lawful development three were dismissed and one allowed.
- 4.4 Two appeals in respect of protected trees were dismissed.
- 4.5 One appeal against the refusal of Listed Building Consent was dismissed and three allowed.
- 4.6 One appeal against the refusal of advertisement consent dismissed.
- 4.7 Three appeals against non-determination of planning applications within the statutory time period were dismissed.
- 4.8 From five appeals against the Council's decision to grant prior approval for permitted development three were dismissed and two were allowed.

5.0 Conclusions

- 5.1 The Council success rate is just below the current National average and just below the Council's own target figure of 70% appeals dismissed, although 1 decision the other way and the target would have been met.
- 5.2 When a decision is made to refuse an application, the reasons have to be well substantiated, robustly supported by adopted policies and in accordance with Government advice. It is clearly evident that in cases where the above advice is not adhered to, an appeal is most likely to be allowed.
- 5.3 There does not appear to be any other particular trend or reason to explain the reason for the drop in performance, although the continued difficulty in defending appeals against house extensions and the higher than usual number of applications allowed following refusal at Committee help to explain the figures a little.
- 5.4 Appeal decisions are constantly being analysed to ensure that any changes in accordance with National Planning Policy are implemented and that decisions on planning applications are made in accordance with current Government Advice.

**EAST DEVON DISTRICT COUNCIL
LIST OF PLANNING APPEALS LODGED**

Agenda Item 8

Ref: 20/2461/FUL **Date Received** 24.06.2021
Appellant: Nick Smith
Appeal Site: The Dairy Barn Combehayes Farm Honiton EX14 9TS
Proposal: General purpose agricultural building.
Planning APP/U1105/W/21/3277782
Inspectorate Ref:

Ref: 21/0957/TRE **Date Received** 24.06.2021
Appellant: Mr Michael Stanford
Appeal Site: 27 Eyewell Green Seaton EX12 2BN
Proposal: T1: Ash, fell
Reason: The tree is dying from ash dieback

Planning
Inspectorate Ref:

Ref: 20/1115/COU **Date Received** 25.06.2021
Appellant: Mr Mark Perry
Appeal Site: Building North Of Harbour Close Combpyne
Proposal: Proposed change of use of 1 no existing structure from agricultural to B1 and B2 use
Planning APP/U1105/W/21/3277838
Inspectorate Ref:

Ref: 20/2882/FUL **Date Received** 27.06.2021
Appellant: Mr James Whilding
Appeal Site: The Laurels Longmeadow Road Lympstone Exmouth EX8 5LE
Proposal: Construction of first floor dormer, ground floor kitchen extension and replacement of side conservatory.
Planning APP/U1105/D/21/3277866
Inspectorate Ref:

Ref: 20/1497/FUL **Date Received** 28.06.2021
Appellant: Mrs Sasha Turner
Appeal Site: 18 Victoria Road Exmouth EX8 1DL
Proposal: Demolition of garage and erection of one bedroom dwelling
Planning APP/U1105/W/21/3277883
Inspectorate Ref:

Ref: 20/1582/FUL **Date Received** 06.07.2021
Appellant: Wyatt
Appeal Site: Barns At Higher Hawkerland Farm Sidmouth Road Aylesbeare Exeter EX5 2JW
Proposal: Change of use and subdivision of Barns 1 and 2 and part of Barn 3 from agricultural use to form 10no. storage and distribution units (Use Class B8), including external alterations to provide a roller shutter door and a by-pass door to each unit, provision of infill cladding to the existing hit & miss boarding to the external walls and provision of a gravel finish to the existing earth hardstanding to form Yard 1 and Yard 2 to be used for additional external storage associated with the units (retrospective)
Planning Inspectorate Ref: APP/U1105/W/21/3278488

Ref: 21/F0079 **Date Received** 06.07.2021
Appellant: Mr Mark Perry
Appeal Site: Building North Of Harbour Close Combpyne
Proposal: Appeal against an enforcement notice served in respect of the unauthorised change of use of a buiding from agricultural to B1 and B2 use
Planning Inspectorate Ref: APP/U1105/C/21/3278461

Ref: 21/1096/FUL **Date Received** 07.07.2021
Appellant: Mr May
Appeal Site: 1 Highfield Sidmouth EX10 8XA
Proposal: Single storey garage.
Planning Inspectorate Ref: APP/U1105/W/21/3278497

Ref: 20/2789/FUL **Date Received** 08.07.2021
Appellant: John Lomax
Appeal Site: Water Tower At Mount Pleasant Exmouth Road Aylesbeare
Proposal: New storage building and demolition of existing water tower
Planning Inspectorate Ref: APP/U1105/W/21/3278600

Ref: 21/0822/VAR **Date Received** 12.07.2021
Appellant: Mr Tim Baker
Appeal Site: Sundown Littlemead Lane Exmouth EX8 3BU
Proposal: Variation of condition 2 (plans condition) of planning permission 20/1963/FUL (Proposed new two-bedroom dwelling with off-road parking and garden) to reduce size of plot and size of dwelling.
Planning Inspectorate Ref: APP/U1105/W/21/3278789

Ref: 20/1938/FUL **Date Received** 16.07.2021
Appellant: Mr Benjamin Tomlinson
Appeal Site: Hillside Farm Harcombe Lyme Regis DT7 3RN
Proposal: Proposed demolition of rear extension and construction of single and two storey rear/side extensions, raised terrace with steps and associated landscaping
Planning Inspectorate Ref: APP/U1105/D/21/3279129

Ref: 21/0162/FUL **Date Received** 16.07.2021
Appellant: c/o agent
Appeal Site: Land South Of Pump Field Close Dunkeswell
Proposal: Construction of 1no affordable dwelling and associated works
Planning Inspectorate Ref: APP/U1105/W/21/3279130

Ref: 20/1939/LBC **Date Received** 16.07.2021
Appellant: Mr Benjamin Tomlinson
Appeal Site: Hillside Farm Harcombe Lyme Regis DT7 3RN
Proposal: Proposed demolition of rear extension and construction of single and two storey rear/side extensions, raised terrace with steps and associated landscaping; alterations to the existing house including windows replacement and creation of new opening to kitchen, removal of current porch doors and replacement with windows; replacement of 9 no windows.
Planning Inspectorate Ref: APP/U1105/Y/21/3279137

EAST DEVON DISTRICT COUNCIL
LIST OF PLANNING APPEALS DECIDED

Ref: 20/0912/VAR **Appeal Ref:** 21/00002/REF
Appellant: Mr & Mrs Peter & Ann Stansell
Appeal Site: Goldcombe Farmhouse Gittisham Honiton EX14 3AB
Proposal: Conversion Of Existing Buildings To Holiday Dwellings
(application for removal of Condition 5 of planning permission
84/P0792 to allow year round occupancy of the holiday
dwellings and variation of Condition 6 of planning permission
84/P0792 to allow The Cider Barn to be used as an
unrestricted residential dwelling)
Decision: **Appeal Dismissed** **Date:** 25.06.2021
Procedure: Written representations
Remarks: Delegated decision, countryside protection reasons upheld
(EDLP Strategy 7).
BVPI 204: **No**
Planning APP/U1105/W/21/3267313
Inspectorate Ref:

Ref: 20/1908/FUL **Appeal Ref:** 21/00013/REF
Appellant: Mr Ben Shipton
Appeal Site: Honeysuckle Thatch Talaton Exeter EX5 2RN
Proposal: Removal of existing extension to the west of the property, and
the creation of a new extension in its place extending to the
south.
Decision: **Appeal Dismissed** **Date:** 08.07.2021
Procedure: Written representations
Remarks: Delegated refusal, listed building conservation reasons
upheld (EDLP Policies D1 & EN9).
BVPI 204: **Yes**
Planning APP/U1105/W/21/3270084
Inspectorate Ref:

Ref: 20/1909/LBC **Appeal Ref:** 21/00014/LBCREF
Appellant: Mr Ben Shipton
Appeal Site: Honeysuckle Thatch Talaton Exeter EX5 2RN
Proposal: Removal of existing extension to the west of the property, and
the creation of a new extension in its place extending to the
south.
Decision: **Appeal Dismissed** **Date:** 08.07.2021
Procedure: Written representations
Remarks: Delegated refusal, listed building conservation reasons
upheld (EDLP Policies D1 & EN9).
BVPI 204: **No**
Planning APP/U1105/Y/21/3270087
Inspectorate Ref:

Ref: 20/2424/PDQ **Appeal Ref:** 21/00016/REF
Appellant: Mrs Sarah Taylor
Appeal Site: Bond Lane Farm Bonds Lane Woodbury Salterton Exeter EX5 1QF
Proposal: Prior approval for proposed change of use of existing poultry building to 3 no. larger dwellinghouses and 2 no. smaller dwellinghouses (use class C3) and associated operational development under Class Q(a) and (b)
Decision: **Appeal Dismissed** **Date:** 08.07.2021
Procedure: Written representations
Remarks: The Inspector agreed with the Council that the extent of the proposed works exceeded those classed as permitted development.
BVPI 204: No
Planning APP/U1105/W/21/3270922
Inspectorate Ref:

Ref: 20/1543/FUL **Appeal Ref:** 21/00017/COND
Appellant: Mrs Alison Brockbank
Appeal Site: Bicton Inn 5 Bicton Street Exmouth EX8 2RU
Proposal: Proposed yard/smoking area and installation of new door
Decision: **Appeal Dismissed** **Date:** 13.07.2021
Procedure: Written representations
Remarks: Delegated decision, amenity reasons upheld (EDLP Policies D1 & EN14)
Appeal against the imposition of a condition on the grant of planning permission restricting the use of the yard/smoking area beyond 10pm.
BVPI 204: No
Planning APP/U1105/W/21/3270924
Inspectorate Ref:

East Devon District Council List of Appeals In Progress

App.No:	19/0078/FUL	
Appeal Ref:	APP/U1105/W/19/3242773	
Appellant:	Mr & Mrs Raggio	
Address:	Lily Cottage Goldsmith Lane All Saints Axminster EX13 7LU	
Proposal:	Demolition of former cottage and construction of new dwelling.	
Start Date:	8 January 2020	Procedure: Hearing
Questionnaire Due Date:	15 January 2020	
Statement Due Date:	12 February 2020	
Hearing Date:	To be arranged	

App.No:	15/F0020	
Appeal Ref:	APP/U1105/C/20/3248557	
Appellant:	Ms Charmaine Lee	
Address:	Hawkwell Park, Hawkchurch	
Proposal:	Appeal against the serving of an enforcement notice in respect of the non - compliance with a condition on a planning permission restricting the occupation of caravans on the site to gypsies and travellers.	
Start Date:	8 December 2020	Procedure: Inquiry
Questionnaire Due Date:	22 December 2020	
Statement Due Date:	19 January 2021	
Inquiry Date:	12 October 2021	

App.No:	20/2043/VAR	
Appeal Ref:	APP/U1105/W/21/3268125	
Appellant:	Philip and Christine Potter	
Address:	April Rise Crewkerne Road Axminster EX13 5SX	
Proposal:	Variation of condition 3 of permission 18/1425/FUL (Retention of garage as built, and change of use to create holiday accommodation) to allow building to be used as an unrestricted dwelling	
Start Date:	2 March 2021	Procedure: Written reps.
Questionnaire Due Date:	9 March 2021	
Statement Due Date:	6 April 2021	

App.No:	20/1251/TEL
Appeal Ref:	APP/U1105/W/21/3268338
Appellant:	Telefonica Limited
Address:	Stantyway Recreation Ground Otterton
Proposal;	The erection of an 18m high lattice tower supporting 3no. antennas and 1no. microwave dish, the installation of 1no. equipment cabinet and 1no. meter cabinet on new concrete base and the installation of ancillary equipment
Start Date:	4 March 2021
	Procedure:
	Written reps.
Questionnaire Due Date:	11 March 2021
Statement Due Date:	8 April 2021

App.No:	20/2410/MFUL	
Appeal Ref:	APP/U1105/W/21/3270077	
Appellant:	Churchill Retirement Living	
Address:	Honiton Cattle Market Silver Street Honiton	
Proposal;	Demolition of existing structures and redevelopment to form 57 retirement living apartments for older persons including communal facilities, parking and landscaping.	
Start Date:	29 March 2021	Procedure:
		Inquiry
Questionnaire Due Date:	5 April 2021	
Statement Due Date:	3 May 2021	
Inquiry Date:	19 July 2021	

App.No: 20/0191/FUL
Appeal Ref: APP/U1105/W/21/3272290
Appellant: Cladir Limited
Address: Home Farm Clyst Honiton Exeter EX5 2LX
Proposal; Construction of 1 no. warehouse building, renovation of brick building, construction of hammerheads and site entrance, installation of pallisade fencing, vehicular and pedestrian gates, 2.1m high wall, covered cycle store and refuse store and lockable road barrier
Start Date: 18 May 2021 **Procedure:**
 Written reps.
Questionnaire Due Date: 25 May 2021
Statement Due Date: 22 June 2021

App.No: 20/2074/LBC
Appeal Ref: APP/U1105/Y/21/3271260
Appellant: Mr R Hawley
Address: Old School House Cotleigh Honiton EX14 9HJ
Proposal; Proposed demolition of existing conservatory and construction of two storey rear extension including installation of solar panels, part glazed veranda, insertion of 1 no. first floor window to north elevation and internal alterations to the existing house including creation of new door opening to kitchen and removal of existing door on south elevation
Start Date: 1 June 2021 **Procedure:**
 Written reps.
Questionnaire Due Date: 8 June 2021

Statement Due Date:

6 July 2021

App.No: 21/0362/FUL
Appeal Ref: APP/U1105/W/21/3276628
Appellant: Mr & Mrs David & Gail Thorpe
Address: Bottom Barn Broadhembury Honiton EX14 3LN
Proposal: Use of the land for the stationing of a mobile home to allow for the business manager to live on site and oversee the business property outside operational working hours (retrospective application)
Start Date: 25 June 2021 **Procedure:**
 Written reps.
Questionnaire Due Date: 2 July 2021
Statement Due Date: 30 July 2021

Statement Due Date:

10 August 2021

Agenda Item 9

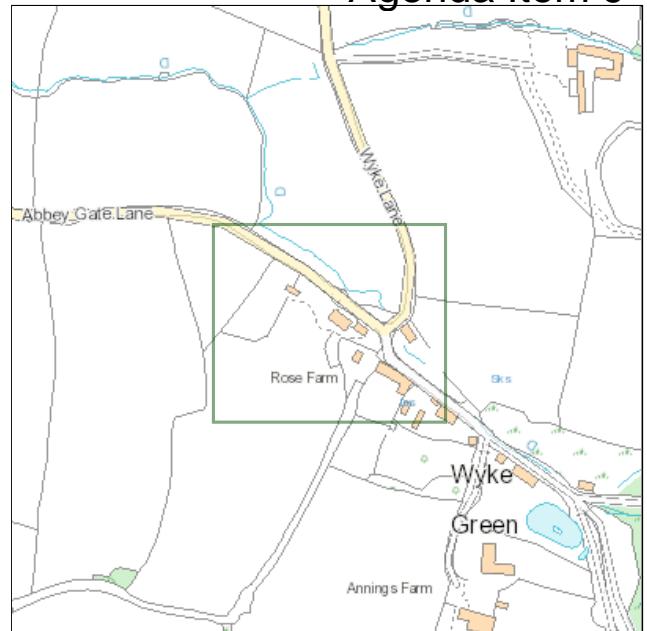
Ward Axminster

Reference 21/1058/FUL

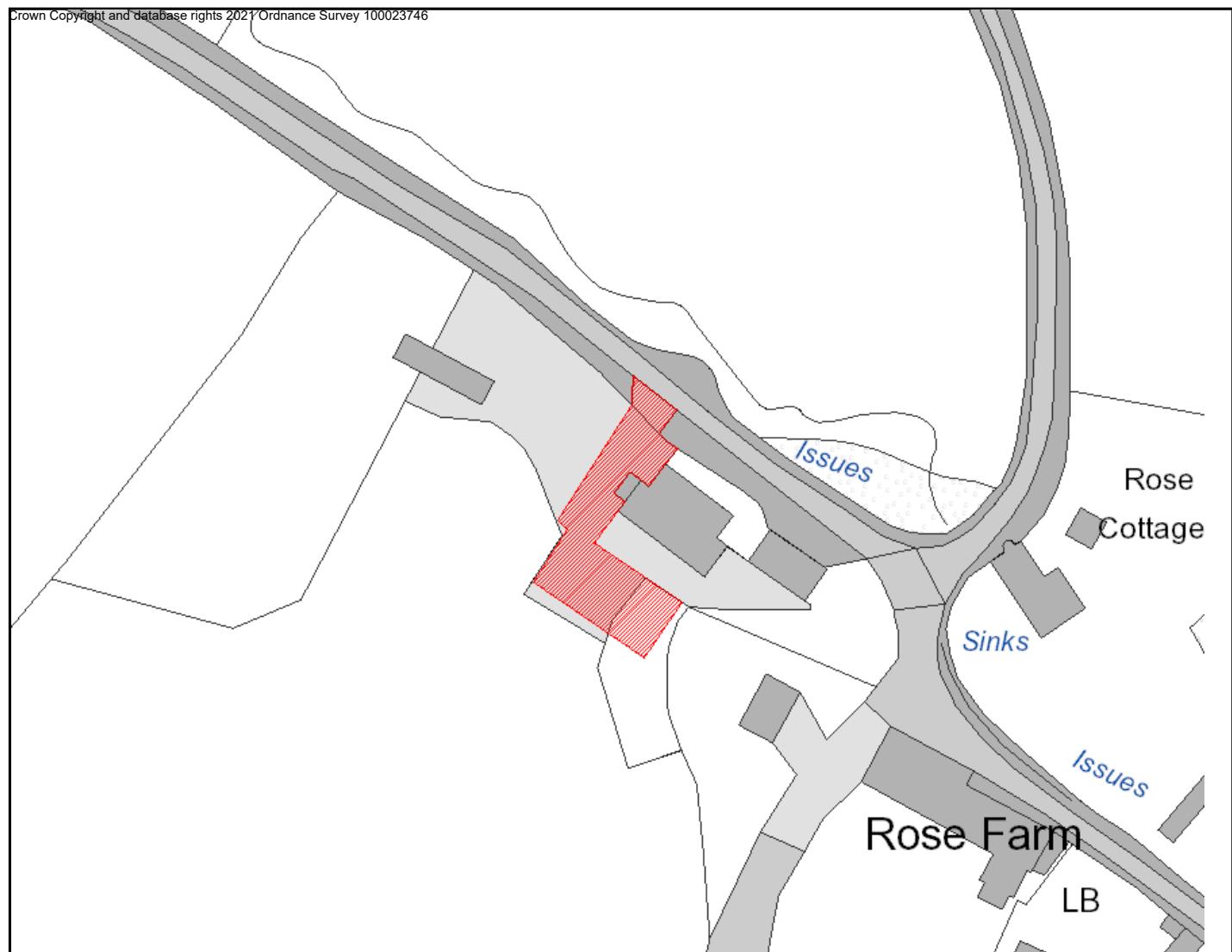
Applicant Mr & Mrs J Bostock

Location Rose Farm Wyke Axminster EX13 8TN

Proposal Erection of open fronted general storage barn.



RECOMMENDATION: Refusal



		Committee Date: 4th August 2021
Axminster (Axminster)	21/1058/FUL	Target Date: 17.06.2021
Applicant:	Mr & Mrs J Bostock	
Location:	Rose Farm Wyke	
Proposal:	Erection of open fronted general storage barn.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

The application is to be considered at the Planning Committee as the officer recommendation is contrary to the view of two Ward Members.

The proposal is for a large open fronted barn building for a mixed agricultural and equestrian use, namely the storage of vehicles, equipment and haylage. It follows the refusal of a similar proposal in January this year by Committee, referenced 20/1633/FUL. The scale, design and external materials of the barn have been revised for this application.

The site is in the countryside within the hamlet of Wyke and is outside of any AONB area. It is located near a public highway, a short distance to the west/northwest of two Grade II listed buildings, Rose Farm and Rose Cottage (both of which are dwellings). Despite partial screening by vegetation, a fence and outbuildings, existing buildings and equipment within the site are partially visible in both close and distant views from public viewpoints.

The scale of the proposed barn building relates to the size and quantity of equipment and material to be stored within it. The applicant's land holding is modest in scale. No reference is made to any commercial agricultural enterprise currently taking place on the land, though the land produces haylage for use in the stables at the site and sheep grazing is being considered for the future. It is unclear how all the items of the equipment proposed to be stored within the application building relate to typical regular agricultural activity on the land or the existing equestrian use. No increase in stable capacity is referred to in the application and it is unclear why an existing building described as a hay barn cannot to be used to store haylage. On the basis of the information submitted it is therefore not considered that an agricultural/equestrian need exists for a storage building at this site, at the scale proposed.

The Conservation Officer advises that the barn would harm the rural setting of the two listed buildings, which contributes to their significance, noting that this has been diminished over time by changes on the land in the vicinity of the application site. Local Plan Policy EN9 requires harm to be weighed against the public benefits of a proposal, however in this case no public benefits have been identified which would outweigh the identified harm.

Axminster Town Council and a Ward Member object to the proposal on the basis of lack of justification, impact on listed buildings and concerns about flood risk. Other objectors raise similar concerns. Representations of support claim that the proposed barn would support the viability of agricultural and equestrian activity at the site and the provision of related community benefits, that its visual impact would be minimal and that the application would contribute to crime prevention, traffic reduction and keeping the site tidy. Two Ward Members support the proposal indicating that the design has been improved such that it is acceptable.

Given the visibility of the proposed building, its scale, the harmful impact on the setting of the adjacent listed buildings, the lack of justification for it in relation to the existing equine and agricultural use and the absence of significant public benefit outweighing that harm the recommendation is that the application be refused.

CONSULTATIONS

Local Consultations

Parish/Town Council

12/5/21

AXMINSTER TOWN COUNCIL REMAINS OPPOSED TO THIS APPLICATION. COUNCILLORS FELT THAT THAT THEIR ISSUES OF CONCERN HAVE NOT BEEN ADDRESSED BY THE CHANGES MADE.

Further comments:

Axminster Town Council's views in relation to this application remain unchanged.

Axminster - Cllr Andrew Moulding

25/4/21

I recommended approval of the previous application, which was refused. I believe that the applicant has amended the plan to reflect the views and advice given by the planning committee when the application was approved. I therefore recommend approval of this application.

Further comments:

I confirm my support for this application and recommend approval

Further comments:

I maintain my support for this application.

I believe the applicants and their agent have listened carefully to the recommendations made by members of the planning committee when the previous application was refused.

In this respect, the building has been reduced in height (as far as is feasible), the design has been improved and the materials used for the cladding and roof have been changed in line with the advice received.

I cannot agree that there is not a genuine agricultural and equestrian need for the storage building, which has been changed in designation from the formerly submitted "agricultural barn".

Surely, we should support the applicants in attempting to tidy up this site in the countryside, which currently appears an eyesore.

Axminster - Cllr Ian Hall

27/4/21

I recommend approval.

The new plans look far more agreeable.

Further comments:

I maintain my previous comments.....

I recommend approval.

The new plans look far more agreeable.

Axminster - Cllr Sarah Jackson

14/5/21

Following a review of the new application, and the January planning committee meeting recording which refused the previous application for an agricultural building, I have visited the site to understand how this new application relates to the area and the 2 neighbouring listed buildings. My intention was to view the site from the public highway, but upon arrival, I was met by the applicant who invited me to also observe the site from within the landholding boundaries, which was helpful. Further conversation with the applicant has clarified the applicant's justification for this building and my subsequent thoughts are as follows.

Firstly, I sympathise entirely with the applicants need for somewhere to store 2 large vehicles (a tractor and 4m high JCB, currently situated at Rose Cottage) which are used for ditch clearing and the management of haylage on-site, although I would note that these might normally be associated with a larger farming operation, rather than the recreational/competitive equine activity that currently occupies this site. Nonetheless, these are very expensive pieces of equipment and I understand entirely the applicant's motivations for wanting a building in which to store them out of the elements.

However, when objectively comparing these new plans to the previous plans considered by the committee, it is worth highlighting that the new heritage statement incorrectly refers to a substantial drop in height from over 6m to 5m - this is misleading. The refused plan actually considered by the committee in January featured a roof height of 5.2m. The new proposed height is 5m and therefore, sees a drop of just 200mm. This is detailed in the combined plan drawings in this current application. Subsequently it cannot be considered that this application delivers a significant reduction in height by any stretch of the imagination. I am not sure if this has been recognised by my colleague Cllr Hall who at the last committee meeting stressed that a height of 5.2m was "far, far too high" but now appears to support the application.

Further to this, the new application details an increased building length. The main highway next to Rose Cottage (to the North East) is elevated and it appears to me, that whilst the ground slopes away, the ridgeline of the proposed building would appear just a fraction lower than that of grade 2 listed Rose Farm (adjacent to the South East) from this same vantagepoint. - in real terms, this means this new application would result in a greater visual impact from the road than the previous application. On a positive note, however, I acknowledge that the applicant has made efforts to change the building materials in an attempt to make it more in keeping with surrounding buildings. That is to be commended.

I am also minded of Mr Rose's comments at the previous planning committee where he stressed that there was no planning policy to support the erection of a general-purpose storage building in open countryside, and thus material planning considerations would apply. These would particularly relate to the harm caused to the character of the listed buildings nearby and whether this was offset by any public benefit, rather than simply benefit to the applicant.

Given the previous decision of the committee to refuse the application based on scale and visual impact, and the continued concerns of the conservation officer, I cannot see how this new application can be perceived as an improvement on the previous one with regards to the character of the local area. From talking to the applicant, it is clear that any harm is not countered by public benefit as the proposed development is evidently for private benefit only. However, might I suggest a compromise? If the applicant were to submit revised plans that saw the height reduced to just over 4m (the required height to accommodate the JCB) - which, following further consideration of the plans I do believe could be achieved with a mono-pitched roof - this substantial drop in height would make it far less visible from the road and perhaps the harm to the character of the listed buildings reduced enough to mitigate any significant harm to the character of the area. I would however stress that the footprint of this building is substantial when considered against the surrounding buildings and I could not support any further increases in this regard. In fact, I would certainly welcome a reduction in footprint. It would also be worth the applicant considering repositioning the building elsewhere on the landholding so that it sits further away from the 2 listed buildings, although I recognise this could come at a loss of paddock space, and indeed there may be other physical limitations that would prevent such an approach - e.g. waterways.

As it currently stands, I cannot support the current proposal but would welcome a revision that does tackle the concerns raised by the committee previously.

Further comments:

After consideration of the latest revised plans, and taking on board the comments from the agent, and having seen the vehicles myself first-hand, I regret that I still believe that this proposed building would be too high (particularly given the increased length). However, my previous comments (and suggestion) still apply. A mono-pitched barn with a maximum height of just over 4 metres would still allow the plant and equipment (and haylage) to be stored but would dramatically reduce the visual impact of the proposed building from the highway. I note the reference to "public benefit" in the agent's correspondence, but do not feel that this is a material planning consideration as the works would be required regardless of whether the new barn is constructed, and could be undertaken with "hired-in" plant if necessary; ownership of specific equipment does not, and should not influence planning determinations in isolation.

I must add that I am not opposed to a barn in this location per se but simply am concerned about the size and scale of the proposed building in relation to the buildings that already exist nearby. The activity on site is not agricultural but rather recreational-equestrian, linked to the residential nature of the buildings adjacent and should therefore demonstrate appropriate scale for these activities. In summary, the proposals are for a convenience barn, not a commercial barn, and I can only therefore respectfully suggest that the agent/applicant consider the height and design once more to reflect these concerns.

Technical Consultations

Conservation

13/5/21

CONSULTATION REPLY TO PLANNING EAST TEAM
PLANNING APPLICATION AFFECTING LISTED BUILDING

ADDRESS: Rose Farm, Wyke, Axminster

GRADE: II APPLICATION NO: 21/1058/FUL

PROPOSAL: Erection of open fronted general storage barn.

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

There are two listed buildings in the immediate vicinity of the proposal. Together they form a small informal group at the junction of Wyke Lane and Abbey Gate Lane. The surrounding land is countryside with a number of farms, some listed eg Wyke Farm, in the nearby locality. There is a concentration of mature hedgerow and trees around this grouping and forming field boundaries.

Rose Farm is listed Grade II

Rose Cottage is listed Grade II

Their significance is derived from their age (dating from C17 & C18), vernacular character and appearance and their rural setting and the use of traditional materials.

HOW WILL PROPOSED ALTERATIONS AFFECT HISTORIC CHARACTER OF BUILDING AND ITS SETTING:

The application under 20/1633/FUL was recently refused. This application seeks to address the previous concerns raised relating to the harm to the setting of the listed buildings.

The agricultural barn has been reduced in height with a maximum of 5m sloping down to 3.4 at the rear. The roof is now to be Juniper Green boxed steel sheeting and feather edged timber boarding to the sides. However, the overall length is slightly longer, at 18.3m and the depth only marginally reduced when the overhang is included. The structure is intended to provide undercover storage for the applicant's machinery, haylage and bedding.

The structure is to be located in the same position as previously, behind a very domestic close boarded fence adjacent to the lane which currently screens a collection of timber sheds, loose boxes, stabling and farm machinery stored in the open and served off an existing access onto Abbey Gate Lane. The proposed building is to be added to this group.

As noted in the previous comments (extract): Looking at the historic photographs from 1947 to the present day, it appears that there have always been some structures on this area of land. In addition, the historic OS map dating from 1951 confirms this. However, the number of buildings and extent of the landuse as stabling, sheds, loose boxes, machinery etc appears to have grown considerably. Such incremental change can often result in a detrimental impact on the surrounding land and this case the setting of the listed buildings. The rural green agricultural setting noted on historic maps has been continually eroded to the extent where it has severely diminished this setting. The introduction of this large agricultural barn will further erode the character and appearance of the area and will have an impact on the setting of both properties. In particular views from the east from Wyke Lane coming towards Rose Farm, where the structure will be prominent in the landscape and when approaching from the north past Rose Cottage which frames the lane (Wyke Lane) with the mature trees opposite and opens out into the junction of the two lanes.

It is appreciated that the changes to the overall design and materials of the barn have gone some way to reducing the impact of the barn on the setting of the listed buildings. However, this is still a large structure, which has only been marginally reduced in height and is longer than previously submitted. The changes seem to be insufficient to warrant support and to overcome the reason for refusal relating to the heritage assets. It is still considered that the barn will result in some harm to the setting of the listed buildings.

PROVISIONAL RECOMMENDATION - PROPOSAL

UNACCEPTABLE

DATE: 13/05/21

INITIALS: KBH

Further comments:

ADDRESS: Rose Farm, Wyke, Axminster

GRADE: II APPLICATION NO: 21/1058/FUL

Amended plans received 24th May 2021:

It is appreciated that the ridge has again been reduced in height (by 300mm).

However, this is still a large structure, which has only been marginally reduced in height and is longer than previously submitted. The changes seem to be insufficient to warrant support and to overcome the reason for refusal relating to the heritage assets. It is still considered that the barn will result in some harm to the setting of the listed buildings.

In accordance with the NPPF para 193. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

In this instance it is considered that the proposed large rectangular barn is likely to result in less than substantial harm to the significance of the designated heritage assets. However, this does not equate to a less than substantial objection. Great weight must be given to an asset's conservation. This should therefore be weighed against any public benefits or other benefits that outweigh this harm.

Landscape Officer

8/07/21

I have visited the above site and reviewed the submitted details.

The proposed scheme is likely to have some landscape impact on tranquillity and the surrounding open landscape character as well as localised visual impact in views from the site entrance and from the public highway to the northwest and southeast. The proposals make no provision for mitigation planting, enhancement of landscape character or increased biodiversity value required under local plan strategy 3 and 7.

I understand the Conservation officer has raised concerns regarding impact on the setting of adjacent listed buildings.

If there is a justified need for the building then I would suggest a smaller structure with suitable mitigation planting, possibly extending to the replacement of the existing close board fence to the roadside boundary to the southeast with a suitable native mix hedge on a low bank or set behind a low chert stone wall which would be more in keeping with local landscape character and enhance the setting of the nearby listed buildings.

Environmental Health

5/5/21

I have considered the application 21/1058/FUL and do not anticipate any environmental health concerns.

Other Representations

4 received, 2 in support and 2 objecting. Points raised which are relevant to planning and the development proposal are summarised below:

Support

- The building will not be highly visible and materials have been addressed;
- The proposal would not generate additional traffic but reduce it, as there would no longer be a need to keep bringing feed/equipment in;
- The size of the building has been addressed;
- A building for storage would help with keeping the yard tidy;
- Storage out of sight helps address rural crime;
- The applicant maintains hedgerows in the local area in addition to his own land;
- Storage of equipment under cover is necessary to prolong its lifespan ;
- Haylage needs to be stored to enable its longevity.

Object

- There is no Local Plan policy support for a general purpose building in the countryside;
- The need for the building is questioned given the nature of the holding;
- Two of the shaded buildings on the site layout plan are not described;
- Despite revision, the building is too large, visually intrusive and overbearing;
- The building is inappropriate will be visible in the vicinity of two listed cottages;
- Site will be more visually exposed in future due to ash die back;
- Concern regarding surface water run off/soakaway capacity;
- Roadside parking/unloading;
- Hazardous substances may be stored in the building.

PLANNING HISTORY

The most relevant planning history is included within the table below:

Reference	Description	Decision	Date
85/P0399	Change Of Use To Mini Skip Hire Depot.	Approve	16/4/1985
91/P1072	Scrap Metal Sorting Area & Mini Skip Storage	Approve	27/9/1991
92/P1512	Renewal Of Temporary Planning Permission For Mini Skip Business	Approve	16/10/1992
94/P1626	Renewal Of Temporary Planning Permission For Mini-Skip Business	Approve	19/10/1994

03/P2527	Conversion Of Attached Barn For Residential Use (Listed building consent)	Approve	10/11/2003
03/P2528	Conversion Of Attached Barn For Residential Use	Approve	10/11/2003
06/2984/FUL	Erection of three stables and feed room	Approve	18/12/2006
08/1228/FUL	Conversion of adjoining barn into additional accommodation	Approve	23/6/2008
08/1230/LBC	Conversion of adjoining barn into additional accommodation	Approve	23/6/2008
20/1633/FUL	Erection of agricultural barn	Refuse	10/1/21

It has not been possible to identify a planning permission for each existing outbuilding or extension at the site e.g.

- A rectangular building to the west of the application site which the Local Planning Authority's historic aerial photographs suggest was erected between 2014 and 2017. In correspondence, the applicant indicates that this is a field shelter in equestrian use, that it is not a fixed structure and that it has no permanent base. Aerial photographs indicate it being present in the same position in 2017 and 2020 suggesting permanence, rather than this being a mobile structure which is moved from place to place. As such it is considered to be a building in planning terms. Planning permission would normally be required for such a building, however as it appears to have been in place for more than 4 years it is now likely to be immune from enforcement action being taken, due to the passage of time, and thus lawful.
- Extensions to the north and west of the stable/feed-room permitted by permission 06/2984/FUL. The Local Planning Authority's historic aerial photographs suggest that the northern extension was erected between 2005/6 and 2010 and that the western extension was erected between 2010 and 2017. In correspondence, the applicant indicates that the western extension is used as a feed room and that it is not fixed and that the northern extension is a haybarn which is similarly not fixed (both structures presumably being used in relation to the adjacent equestrian use). Historic aerial photographs suggest the permanence of the extensions in their positions (rather than them being mobile structures which are moved from place to place). As such they are considered to be buildings in planning terms, for which planning permission would normally be required. However, as the extensions appear to have been in place for more than 4 years they would now be likely to be immune from enforcement action being taken, due to the passage of time, and thus lawful.

Application 20/1633/FUL (listed above) was for a similar development to that proposed in this application and was refused for the following reasons:

The proposed agricultural building, due to its large scale and location, would fail to preserve or enhance the rural setting of the adjacent listed dwellings. In the absence of sufficient evidence to demonstrate a genuine agricultural need for the proposed building, including evidence that no other suitable building(s) on the holding could meet all or part of any genuine agricultural need, it is considered that there is no public benefit that outweighs the identified harm and that the harm is therefore unjustified. The proposal therefore conflicts with the requirements of policies D1 (Design and Local Distinctiveness), D7 (Agricultural Buildings and Development), EN9 (Development Affecting a Designated Heritage Asset) of the Adopted New East Devon Local Plan 2013-2031, National Planning Practice Guidance and the National Planning Policy Framework.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies (LP)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D7 (Agricultural Buildings and Development)

D1 (Design and Local Distinctiveness)

EN8 (Significance of Heritage Assets and their setting)

EN9 (Development Affecting a Designated Heritage Asset)

RC4 (Recreation Facilities in the Countryside and on the Coast)

There is no draft neighbourhood plan available for Axminster

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

National Planning Practice Guidance

Site Location and Description

The site lies to the south of the town of Axminster on the western side of the hamlet of Wyke Green, which is located in the countryside, outside of the East Devon AONB. The development site is a partly levelled area to the southwest of an existing stable and outbuilding, within an existing yard which has some hard surfacing. Another stable lies a short distance away to the northwest and further outbuildings lie to the east of the site, close to the dwelling known as Rose Farm (the applicant's dwelling).

Rose Farm and another nearby dwelling, Rose Cottage, are both grade II listed and lie a short distance away to the east/southeast. Both listed dwellings are located near the junction of Wyke Lane and Abbey Gate Lane. The surrounding land is countryside and there are a number of farms in the locality, with listed buildings being present at some of them e.g. Wyke Farm.

The development site is located near the bottom of a shallow valley and is on the edge of (but outside of) flood zones 2 and 3.

Proposal

The proposed barn is as per the details on the application form, submitted plans and supporting details. It is a revised proposal to that which was considered and refused under 20/1633/FUL. The building subject to this application has a slightly different design and different external materials to that previously proposed and a slightly lower height. The building would be open fronted with an asymmetric duo pitched roof, externally finished in juniper green box steel sheeting. The opening would face approximately north and the eaves at the rear of the building would be lower than those at the front opening. The sides and rear of the building would be externally clad in feather edged timber boarding.

Supporting information indicates that the proposed building is for general storage, though it goes on to refer to it having a dual function. From the details following the reference to a dual function this is interpreted to be a mixed agricultural and equestrian use. The agricultural machinery and trailers to be stored include: 2 no. tractors, a JCB digger, a mule utility vehicle, a hedge cutter, a grass harrow and topper, a chipper, crop sprayer, roller and trailer. The proposed building is also to be used to store haylage produced on the land holding which is used at the stables at the site. It is stated that the equipment and machinery to be stored is already stored/parked at the site, with some storage taking place within existing buildings, which are proposed to be used instead for vehicle storage ancillary to Rose Cottage, which that dwelling currently lacks. It is also stated that the applicants run a 23 acre holding and that the addition of further land is being considered.

ANALYSIS

The main issues arising from the application include the principle, impact on the character and appearance of the area and heritage assets, flooding and drainage, and access, parking and highway safety.

Principle

The building is for a mixed agricultural and equestrian use and it is therefore considered against the requirements of LP Policies D7 and RC4.

Policy D7 states “New agricultural buildings and/or buildings intended for intensive agricultural activities that could give rise to adverse amenity, landscape, environmental or other impacts will be permitted where there is a genuine agricultural need for the development”. It goes on to list specific criteria which must also be met, including that

it must be established that there are no other suitable buildings on the holding or in the vicinity which could meet the reasonable need.

Policy RC4 states that planning permission will be granted for outdoor recreation facilities in the countryside and on the coast provided that the nature of the activities undertaken or the space requirements of the proposal require a countryside or coastal location and a number of other numbered criteria are met. For indoor facilities that policy states that use should be made of existing buildings and that any new buildings or extensions should be limited in scale and in close proximity to existing groups of buildings or an existing settlement. It also states that where it is proposed to extend or intensify an existing use the cumulative effect of the use will be considered in the interests of the character of the area.

It is noted that the applicant runs a 23 acre holding and a plan illustrating that holding has been provided. Whilst the surrounding land appears to be agricultural pasture no information is provided within the application to describe any agricultural enterprise currently taking place on that land other than production of haylage, though sheep grazing is stated as being considered for the future.

It is accepted that even where agricultural land is not being used to raise a crop or livestock its lawful use may nevertheless be agricultural in planning terms and that maintenance may be required on it, which may involve the use of various items of equipment. It is also accepted that there is an existing equestrian use at the site which may reasonably require the storage of haylage and equipment within a building and that the policy RC4 supports new buildings for recreational facilities in the countryside, in principle.

However, the acceptability of the proposed barn for a mixed agricultural and agricultural use depends, in part, upon it being reasonably necessary and proportionate in scale, relative to the size of the landholding, the existing agricultural and equestrian activity taking place on the applicant's land and the existing storage available. Given the relatively small scale of the applicant's landholding, the small scale nature of the equine use there together with the limited information provided regarding agricultural activities undertaken on the land it is difficult to understand why two tractors and a utility vehicle are required in relation to the existing land use.

A ward member similarly questions whether the equipment to be stored reasonably relates to the existing agricultural operations and recreational equine activity at the site. The scale of the building proposed relates to the size and type of equipment and materials proposed to be stored within it and given the requirements of LP Policy D7 and RC4 it is therefore considered that the need for that storage needs to be justified.

The desirability of storing expensive equipment and haylage under cover to protect it is understood and accepted. It is also understood that all the equipment to be stored within the proposed barn is currently stored at the site, however it is not considered that existing storage of equipment on land necessarily equates to a reasonable need to use all of that equipment on that land or the need to erect a building on that land in which to store it.

From the details of the various items of equipment to be stored, which were submitted for the previous application (in a document named 'Implements photos') it is noted that many of the smaller items clearly relate to the management of land. However, the tallest piece of equipment to be stored is a JCB digger (described as being 3.2m high) and whilst it is accepted that a need to use that equipment for agricultural/land management purposes may arise on occasion (noting that the application refers to its use for ditch clearance and for future tree planting), it is not considered that this is an item which is typically and regularly used in relation to agricultural activity, particularly on a small scale landholding.

Given the small area of the applicant's landholding and the scale and nature of the activity taking place on the land, it is not clear that the storage of the JCB digger on the holding it is essential in relation to the land use. Supporting information indicates that some of the items of equipment proposed to be stored in the new barn are currently stored in smaller buildings (which lie closer to the Rose Farm dwelling), and that freeing up space within those buildings would provide space for use for domestic garaging, which is currently lacking. The need for domestic garage space is understood and the provision of alternative storage to enable this to be provided within existing buildings is considered to be reasonable, however due to the applicant's intention to store equipment currently stored within the small scale existing buildings in addition to larger scale equipment currently stored outside together with haylage, the proposed barn is significantly larger than the existing buildings.

With regard to halylage it is noted (from additional information supplied by the applicant) that that an existing extension to the north of the stable building (referred to under the planning history above) currently functions as 'a haybarn' and as there is no reference in the application to any intention to increase the stable capacity at the site, it is unclear why additional undercover storage for haylage is needed. Taking all the above points into account, on the basis of the information submitted it is considered that there are other buildings on the holding which could meet at least some of the stated need for undercover storage and that there is not a genuine residual agricultural and equine need for a storage building at the scale proposed.

Character and appearance of the area and heritage interests

The area in and around the hamlet of Wyke has a rural agricultural character and contains few dwellings or other buildings. Whilst the application site and its immediate surroundings (including existing buildings) are partly screened from public views by a roadside hedge, fence and existing outbuildings (one of which flanks the public highway) the upper parts of outbuildings, machinery and paraphernalia within the site are visible from public highways, both at close range (above the hedge and through the access opening) and in approach views from different directions. Despite being slightly reduced in height compared to the building proposed in application 20/1633/FUL, it is considered that the upper part of the proposed building would nevertheless be visible from public viewpoints.

The two listed buildings in the immediate vicinity of the site abut the public highway. These two buildings form a small informal group at the junction of Wyke Lane and Abbey Gate Lane and there is a concentration of mature hedgerow and trees around this grouping and forming field boundaries. Despite the vegetation present, the listed

buildings are clearly visible from the highway both at close range and in approach views from different directions, and from some viewpoints one or other of the listed buildings is viewed in the context of the application site.

The erection of a building of the scale proposed at this site will visibly increase the quantum of built development within the countryside. If the building were considered to be acceptable in principle (which it is not in this case) then were it not for the proximity of the listed buildings, its visual impact would be considered acceptable, given that the site is not in the AONB, that the building would have a simple agricultural appearance, that it would be located close to existing buildings (and would be read as part of an existing group) and that it would be partly screened from view. Given the site's proximity to 2 listed buildings, however, special regard must be had to the impact of the proposal on them, including their setting. The significance of the listed buildings is considered to be derived from their age, vernacular character, appearance, use of traditional materials and their rural setting. An examination of the evolution of the site using historic aerial photographs and maps indicates that the number of buildings and extent of land use for stabling, loose boxes, storage of machinery/paraphernalia has grown considerably over time. Noting this, the conservation officer considers that the setting of the listed buildings has been severely diminished by the incremental erosion of their rural green agricultural setting.

The agent and supporters of the application point out that a new storage building would visually enhance the site through allowing equipment currently stored in the open to be stored under cover. In the case that all the equipment currently stored outside which is proposed to be stored inside the new barn were genuinely ancillary to the existing land use, this point might be considered to weigh in favour of the proposal, however for the reasons given under 'principle' above, it is not considered that this has been demonstrated in the application.

Notwithstanding that the proposed building would be partially screened it would be visible from public viewpoints, particularly during the winter months when tree and hedge vegetation is thinner. It would be noticeably larger than the existing buildings to the west of the Rose Farm dwelling, both in terms of its height and footprint and it would represent a significant addition to the quantum of built development there. Drawing from the advice of the conservation officer it is considered that the proposed building, as amended during the course of the application, would further erode the character and appearance of the surrounding area so as to impact on the setting of the listed buildings, amounting to some harm to their significance, albeit that harm would be less than substantial.

In accordance with LP Policy EN9 where a development would lead to less than substantial harm to the significance of a designated heritage asset the harm must be weighed against the public benefits of the proposal. Whilst the agent contests that the impact on heritage assets is harmful such that there is any need to balance harm against public benefits he argues that even if this were required, the proposal provides public benefits, in that the applicant uses equipment, which is proposed to be stored in the barn, to assist with the management of neighbour's land in the area. It is acknowledged that this is likely to be beneficial for neighbouring landowners however it is considered that where such management is essential or beneficial it would be likely to be carried out anyway, even if it not by the applicant, as other contractors

could be engaged. It is therefore not considered that the management work on surrounding land represents a significant public benefit in this case. The proposed storage barn is associated with small scale agricultural and equine activity which are not considered to offer significant public benefits either.

The landscape officer indicates that a development proposing a smaller scale building in conjunction with landscape and biodiversity enhancement (in particular mitigation planting and the replacement of the domestic style wooden fence with alternative boundary treatment) would be more in keeping with the area. This advice and the scope for enhancement is noted, however this is not the development proposed.

Given that the proposed storage building is not considered to relate to a significant public benefit the harm to the significance of the heritage assets is not outweighed in this case and therefore the requirements of LP Policy EN9 are not met.

Flooding and Drainage

The site abuts, but is not within, flood zones 2 and 3. In response to an objector's concern regarding surface water drainage it is considered that there is adequate space within the site to ensure that clean roof run off water can be drained within the site. In the case that permission is granted a condition could be imposed to require details of the collection and drainage of surface water from the building.

Access, Parking and Highway Safety

The proposal is for a building for mixed agricultural/equestrian use and given that the land holding can already be used for agricultural purposes and that there are already a stable and field shelters at the site (with planning permission or otherwise lawful) it is not considered that the erection of a building of the scale proposed would significantly increase vehicle movements in and out of the site or that it would increase traffic on the local highway network.

Other issues

As the barn is proposed to be used for storage in relation to agriculture and equine use it is considered unlikely that it would have any undue impacts in relation to impact on residential amenity or nuisance. The nature of the site where the proposed building would be erected is such that the erection of the building would be unlikely to have an impact on biodiversity. An objector raises concerns with regard to the storage of hazardous substances however legislation other than planning controls such storage and therefore this is not a matter which could be controlled through planning, in the case that permission were to be granted.

Conclusion

On the basis of the information submitted it is not considered that there is a genuine agricultural and equestrian need for the proposed storage barn and it is therefore not considered to be acceptable in principle. Despite its scale and design being revised compared to the building which was recently refused permission it is considered that the proposed building would result in less than substantial harm to the setting of two

listed buildings which is not outweighed by public benefits, such that on balance, the proposal is not considered to represent sustainable development.

RECOMMENDATION

REFUSE for the following reasons:

1. The proposed building, intended for a mixed agricultural and equine use, due to its large scale and location, would fail to preserve or enhance the rural setting of the adjacent listed dwellings and would harm their significance. In the absence of sufficient evidence to demonstrate a genuine mixed agricultural and equine need for the proposed building, including evidence that no other suitable building(s) on the holding could meet all or part of any genuine need, and in the absence of evidence of public benefit which outweighs the identified harm, the harm is unjustified. The proposal therefore conflicts with the requirements of policies D1 (Design and Local Distinctiveness), D7 (Agricultural Buildings and Development), RC4 (Recreation Facilities in the Countryside and on the Coast), EN9 (Development Affecting a Designated Heritage Asset) of the Adopted New East Devon Local Plan 2013-2031, National Planning Practice Guidance and the National Planning Policy Framework.

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 seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email cil@eastdevon.gov.uk.

Plans relating to this application:

921.2.a	Proposed Combined Plans	18.05.21
921.3.b	Proposed Combined Plans	18.05.21

List of Background Papers

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

Agenda Item 10

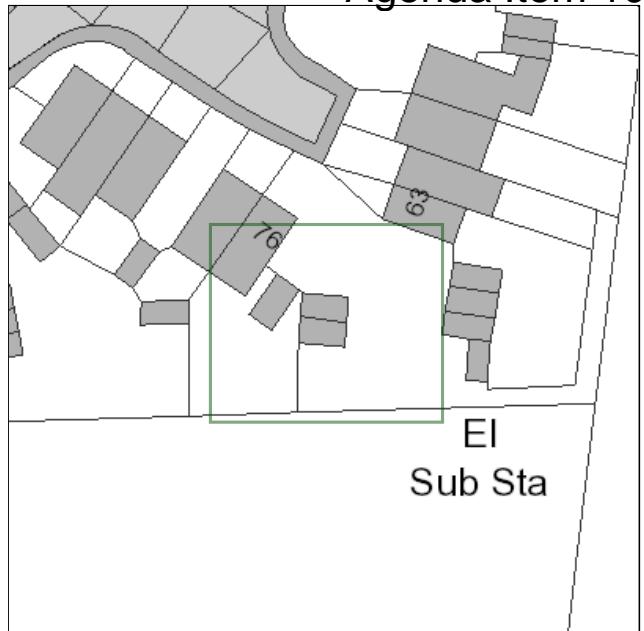
Ward Dunkeswell And Otterhead

Reference 21/0954/FUL

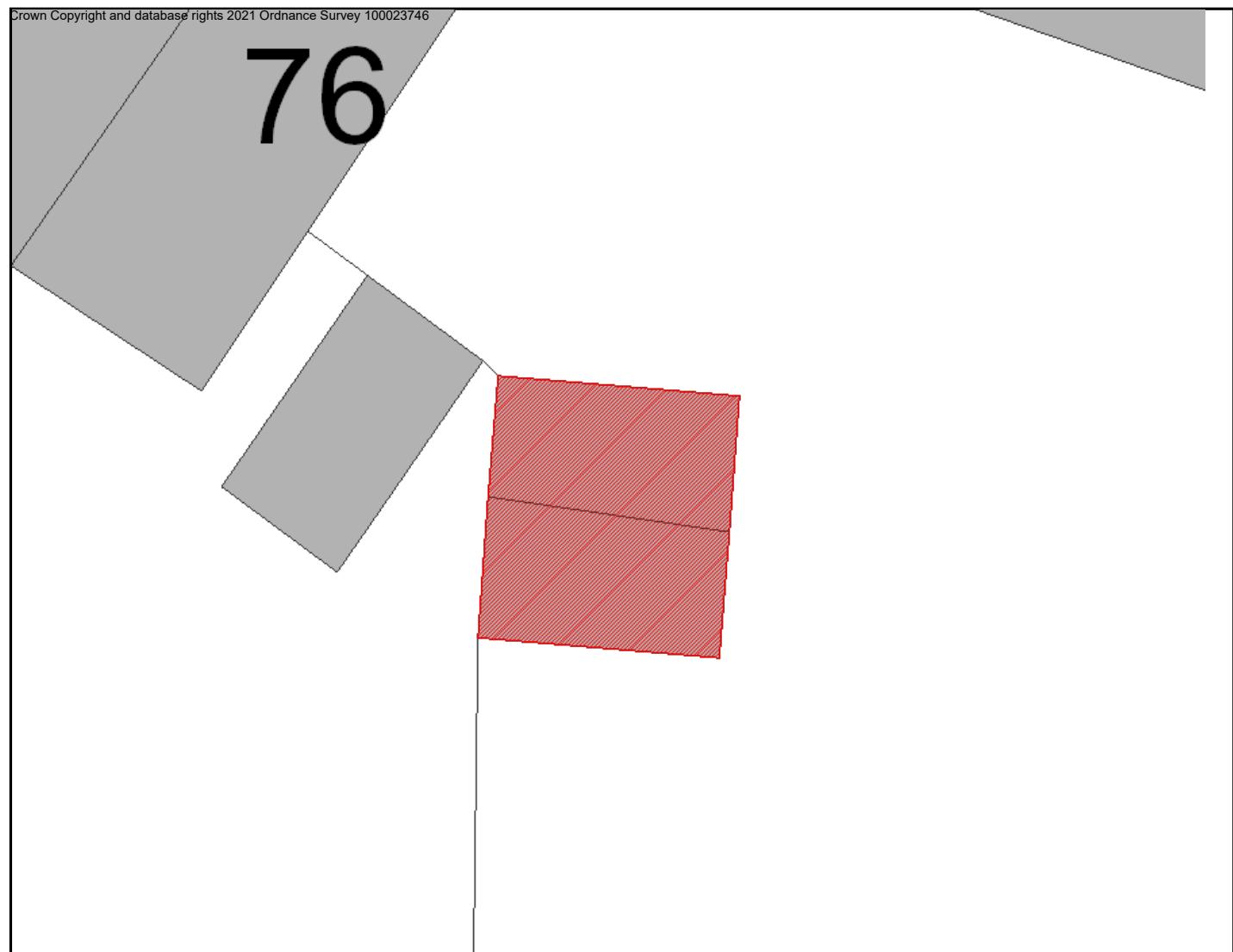
Applicant Mr Richard Jones

Location 61 Jenwood Road Dunkeswell Honiton EX14 4UY

Proposal Change of use and alterations to detached double garage to create an annexe for use by family.



RECOMMENDATION: Refusal



		Committee Date: 4th August 2021
Dunkeswell And Otterhead (Dunkeswell)	21/0954/FUL	Target Date: 02.06.2021
Applicant:	Mr Richard Jones	
Location:	61 Jenwood Road Dunkeswell	
Proposal:	Change of use and alterations to detached double garage to create an annexe for use by family.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is before the Committee because the recommendation is contrary to the view of one of the Ward Members.

The proposal is to convert a detached double garage situated within a shared parking courtyard into an annex to a dwelling which is separated from the parking area by another dwelling.

The proposal would provide a very small self-contained bedsit that would be capable of occupation independently of the main dwelling. Physically and functionally it would be separate from the main dwelling and consequently it would be tantamount to an independent dwelling in its own right. Because it would be self-contained and physically separate it is highly likely that any occupant would live in the accommodation independently of the main house, regardless of any restriction that may be imposed. It would not be appropriate to attempt to control the use by way of a condition or legal agreement because any restriction would inevitably be breached.

By virtue of its small scale and location within a car park, the proposal would fail to provide good quality living conditions for future occupants and it would also fail to reinforce the character of the area.

For these reasons the proposal is recommended for refusal.

CONSULTATIONS

Local Consultations

Dunkeswell And Otterhead - Cllr David Key

I fully support the application stated as an annexe to the main residence and to prevent it from being separated as a separate dwelling.

Parish/Town Council

The Council, having had the opportunity to speak directly with the applicant and have some of the concerns regarding the application explained more thoroughly, including single skin walls, trees surrounding the garage and the room sizes, and in addition, to the applicant having been asked by EDDC to a revision to the original application, to include an agreement for family use only would like to comment as follows on application 21/0954/FUL - In principle the Council have no objections to this application other than they would ask that if the officers are minded to approve this application that it is approved as an annexe, tied to the main dwelling & not for sale separately.

Other Representations

None received.

Technical Consultations

Environmental Health

I have considered the application 21/0954/FUL and do not anticipate any environmental health concerns.

PLANNING HISTORY

None.

POLICIES

Dunkeswell Neighbourhood Plan (Made)

Policy NE1 – Retaining, Conserving and Enhancing the Natural Beauty of our Parish

Policy BE1 – Maintaining the Built Character through High Quality Design

Policy TA3 – Off-road Parking

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

D8 (Re-use of Rural Buildings Outside of Settlements)

TC2 (Accessibility of New Development)

TC9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

National Planning Practice Guidance

Site Location and Description

The site is located on the Highfield estate in Dunkeswell, which lies in the Blackdown Hills AONB. The village does not have a Built-up Area Boundary and hence it is classed as countryside for the purposes of planning policy. Jenwood Road is a cul-de-sac and the application building, a detached double garage, is situated in a shared parking courtyard at the end of the cul-de-sac and on the edge of the developed area. Within the courtyard there is a further block of garages and a number of parking spaces are also marked out. Number 61 is a mid-terrace two-storey dwelling, separated from the parking courtyard by number 63.

Proposal

This application seeks planning permission to alter a detached double garage to create an annex to 61 Jenwood Road. The garage building is located in a small parking courtyard which is a short distance from the house. The parking courtyard is shared with two other properties

The applicants intend to use the annex as accommodation either for one of their adult daughters (aged 21 and 25) or possibly an elderly relative. Unfortunately, at this early stage in their careers, private rental properties are currently out of reach of the daughters. As an interim arrangement the larger of the two bedrooms in the main house has been divided to create two very small bedrooms to give each of the daughters privacy. These cramped living conditions and the affordability problem have given rise to this proposal to convert the garage to additional accommodation.

The annex would have a floor area of 24 square metres and would provide a bed-sitting room with kitchen facilities, a shower room and a hallway with storage cupboards. The external alterations are limited to replacing the garage doors with windows, adding a rooflight and inserting a door in the side elevation. On the south side of the garage there is a small area of ground that would provide an outdoor amenity space for the annex.

ANALYSIS

The main issues for consideration are the principle of development, impact upon the character of the area and impact upon parking.

Principle and Use

To be an annex to a dwelling, there needs to be dependence upon the main house such that the annexe cannot/is not used independently. Dependence is usually in the form of sharing a kitchen or lounge, or bathroom and therefore being daily intensive interaction between the occupiers of the annexe and the facilities in the main house.

Although the building the subject of this application is intended to be occupied by family members, the family relationship would not be sufficient to guarantee a dependence between the annex and the house. In this case the annex would not sit within the curtilage of the dwelling, it would not share an access and there would be a separation of around 30 metres door to door. Owing to the self-contained nature of the

accommodation and its separation from the main house it is highly likely that any occupant would occupy the building independently and would not rely on the main house for any day-to-day needs. Moreover, the occupants of the annex would come and go without any interaction with the occupants of the main house. As a result the annex would be tantamount to an independent dwelling.

The lack of dependence on the main dwelling has been confirmed by the applicant in a supporting statement that states the following:

'Since moving to 61 Jenwood Road in January 1994 we have had two children, both of whom are now over 21. Our second bedroom was divided into two rooms to allow a cot room and small single room many years ago. The larger of the two rooms has a footprint of less than 5 square meters.

When our eldest child's partner stays overnight, this can only be done downstairs due to the size of the bedroom. With an open plan lounge and stairs this can be very difficult as access to the kitchen or the front door is through the lounge.

They both work full time but are trainees on trainees' salaries. We are looking to convert the garage into a studio apartment to provide them the opportunity to have a degree of independence while being able to save to purchase their own property in the future. The garage has only been used for storage since we have owned it. The change of use does not affect parking as the number of vehicles does not increase from the current number.

My work has been based in Dunkeswell since 2001, my wife's work is based in Dunkeswell and both my children work in Dunkeswell so we have no plans on moving.

We are happy for a legal agreement as requested by the planning department being put in place that ties the garage to the house. The level of dependency on the main house will be minimal mainly for use of a washing machine, connectivity to broadband and social interaction/support.

As for the future, when they are in a position to relocate our younger child would then be able to do the same or my elderly parent.'

In the absence of any dependent functional relationship between the two units of accommodation, a planning condition would not be sufficient to ensure that the 'annex' is not occupied independently. Intentionally or not, it is likely that any occupant would be in breach of such a condition because they would not have any need to access the house. Furthermore, it would not be appropriate to create a 'paper' connection by way of a written legal agreement because it would not reflect the actual use taking place. Again, it is highly likely that the occupants would find themselves in breach of the legal agreement, which would carry more severe consequences than breaching a condition.

In circumstances where dependence on the main house cannot be established or guaranteed it is not appropriate to use a condition or legal agreement to create an imaginary connection.

Owing to its physical and functional separation from the main house, the proposed use of the building is not an annexe and tantamount to the creation of a new dwelling.

As Dunkeswell does not have a Built-Up Area Boundary, there is no Local Plan or Neighbourhood Plan support for a new dwelling in this location and the principle of such is unacceptable.

Character

This proposal would provide a very small unit of accommodation by any standard and would not create the 'high standard of amenity' sought for new dwellings in paragraph 127(f) of the NPPF.

While it may assist with relieving pressure in the main house, this in itself does not justify creating additional substandard accommodation.

Furthermore, the plot and the dwelling would be considerably smaller than any of the surrounding properties and would not reinforce the pattern of dwellings fronting onto the road. The location of the dwelling within the parking court would result in a poor living environment.

This small and cramped backland dwelling would be out of character with the area and provide a poor living environment. Consequently it would be contrary to Strategy 7 and Policy D1 of the Local Plan and Policy BE1 of the Neighbourhood Plan.

Parking

The proposal would result in the loss of two potential parking spaces within the garage. However, the garage is currently used for storage and therefore in practice there would be no change in the number of available spaces as a result of the development.

To serve the existing dwelling the applicants own two parking spaces within the courtyard which are adequate to satisfy Policy TC9 of the Local Plan and Policy TA3 of the Neighbourhood Plan. However, the 'annex' would not have any dedicated parking. The Local Plan would expect one space to be provided for a one-bed dwelling and the Neighbourhood Plan essentially seeks to apply the same standard unless "adequate alternative parking provision to serve the dwelling, so that road and pedestrian safety will not be compromised" is provided. The preamble to the policy adds "Our policy TA3 is therefore designed to prevent the loss of existing off-road parking space as a result of development where that loss may have an impact on the safety of road users in the vicinity."

In this area most dwellings have off-road parking spaces and consequently there is not excess demand for spaces on the road. Whilst the 'annex' would not have its own off-road parking, the one additional car it would generate could be accommodated on the road without compromising safety. The proposal would therefore satisfy the overall objectives of the Local and Neighbourhood Plans.

Other Matters

The garage is adjacent to 76 Jenwood Road but the layout of the proposed development would not give rise to any adverse impact on the neighbour's amenity.

There would be no impact on the landscape and scenic beauty of the AONB as the proposal relates to an existing building and the alterations proposed are modest.

Furthermore there would not be any pressure to fell any trees as they would not adversely affect the occupants of the annex.

CONCLUSION

In summary, the 'annex' would effectively be a new dwelling and no condition or legal agreement limiting its occupation could reasonably be imposed owing to the degree of physical and functional separation between the 'annex' and the main house. There is no Local Plan or Neighbourhood Plan policy support for a dwelling in this unsustainable location.

Furthermore, by virtue of its small size and its location in a car park, it would fail to provide a good standard of amenity and it would not reinforce the character of the area.

In view of these considerations the proposal is recommended for refusal.

RECOMMENDATION

REFUSE for the following reasons:

1. The proposal would create a unit of self-contained accommodation that would be physically and functionally separate from the main dwelling. Consequently it would be tantamount to an independent dwelling and its occupation could not reasonably be controlled by way of a condition or a legal agreement.
Furthermore, occupation as an independent dwelling would be contrary to the description of the proposal. In the absence of a dependent relationship between the proposed accommodation and the main dwelling and given that an effective means of control over the occupation of the accommodation cannot be secured, the development would amount to an independent dwelling which would fall outside the scope of this application and cannot therefore be supported.
Furthermore, there is no Local Plan or Neighbourhood Plan policy support for a dwelling in this unsustainable location and as such the proposal is contrary to Strategy 7 of the East Devon Local Plan.
2. By virtue of the small scale of the building and the plot and the location within a car park the proposal would give rise to poor living conditions for future occupants and for the same reasons the development would be out of character with the surrounding area. The proposal is therefore considered to be contrary to Strategy 7 - Development in the Countryside and Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031 and Policy BE1 - Maintaining the Built Character through High Quality Design of the Dunkeswell

Neighbourhood Plan 2014-2031 and paragraph 127 of the National Planning Policy Framework (2019).

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email cil@eastdevon.gov.uk.

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 seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

Plans relating to this application:

01-0820-(P)02	Combined Plans	01.04.21
02-0820-(P)01	Location Plan	01.04.21
02-0820-(P)04	Proposed Combined Plans	01.04.21

List of Background Papers

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

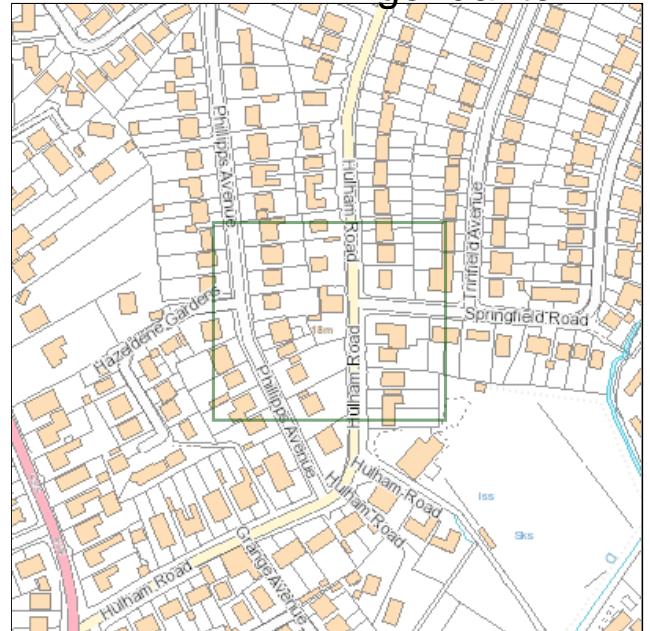
Ward Exmouth Halsdon

Reference 21/0587/FUL

Applicant Mrs Demelza Tucker (Skinner Construction Limited)

Location 21 Hulham Road Exmouth EX8 3JZ

Proposal Construction of replacement dwelling and garage.



RECOMMENDATION: Approval with conditions



		Committee Date: 4 August 2021
Exmouth Halsdon (Exmouth)	21/0587/FUL	Target Date: 19.05.2021
Applicant:	Mrs Demelza Tucker (Skinner Construction Limited)	
Location:	21 Hulham Road Exmouth	
Proposal:	Construction of replacement dwelling and garage.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before Members because the Officer recommendation is contrary to that of the Ward Members.

Planning permission is sought for the replacement of a single dwelling in Hulham Road. The site is located within the Built-up Area Boundary of Exmouth and surrounded by residential development.

A four bedroom two storey property is proposed, together with a detached garage and associated garden. The design scale and form is somewhat suburban in form but not exceptional or unreasonable within this mixed residential area.

A number of concerns have been raised regarding the scale and relationship of the proposed dwelling leading to a loss of privacy, visual intrusion and loss of sunlight to the neighbouring properties to the west of the site.

Whilst the outlook from these dwellings may be altered, and a limited loss of sunlight/overshadowing of gardens at certain times of the day and year will occur, the level of harm is considered to be relatively minor, and not such that a refusal of planning permission could be justified.

Further concerns regarding highway safety arising from the proposed alterations to the driveway are also appreciated, however there would not be any increase in the number of dwellings, and improvements in the sight lines at the entrance of the driveway are considered to represent a modest increase in highway safety.

Overall the proposal is considered to be acceptable and the application is recommended for approval.

CONSULTATIONS

Local Consultations

Exmouth Halsdon - Cllr Megan Armstrong

As Ward Councillor I am writing to object to application 21/0587/FUL for the following reasons:

1. This is the third application in the last two years for this site, the previous two having been withdrawn following rejection by the Town Council Planning Committee and the County Highways Authority.
2. I fully support all the nearby Phillipps Avenue residents' concerns including the loss of privacy, loss of light and aspect, overshadowing, height of the building, road safety, vehicle access, ecology and biodiversity, plus the more detailed comments about the sunlight path analysis made by one of the objectors.
3. I am also concerned about this application regarding the lack of documentation and certain details, such as
 - there is no Highways Access Statement which was previously included in earlier applications;
 - the Ecological Preliminary Appraisal of 2019 expires on 16th June this year but the then 'recently cleared ground' has now re-grown, therefore new species could currently inhabit that site, therefore I would recommend that this Appraisal be reviewed.
4. I am sure I do not need to remind anyone who lives locally of the road safety and speeding issues along Hulham Road and specifically traffic travelling north from this lower end and immediately following a sharp left bend. There is a history of road traffic accidents along Hulham Road (with one of them being only last week), and including this particular stretch.
Traffic and road safety issues were prominent features of concern in the previous two applications and although this current proposal would like us to believe that the new driveway, the slightly lower boundary wall and on-site turning 'would significantly improve highways safety for no's 21 & 23', (which in itself is questionable) I would suggest (contrary to comments by supporters of this application) that these proposals do absolutely nothing to improve the safety of all other road users. In fact in my view and that of other residents, this new access, in such a dangerous place (opposite a junction) and still with limited visibility in a southerly direction, would increase the likelihood of further serious accidents and is totally unacceptable.
5. It is disingenuous for the applicant to say that there would be no increase in traffic to and from the public highway, as the current property has been vacant for approximately four years, therefore without any vehicles, whereas a new four bedroomed property would incur at least a 100% increase in vehicle movements and likely to be much more.
6. Without (a) an updated Highways Access Statement and (b) comments from the County Highways Authority, I would suggest that no informed decision can yet be made on this application regarding road safety.

Finally I confirm my objection and recommend that this application is refused.

Further comments:

As Ward Councillor I am writing to object to the amended application 21/0587/FUL.

I recognise that the applicant has now made some slight adjustments to the height and apparently to the footprint of the proposed dwelling, with hipped gables to the roof, and these are appreciated.

However I am also aware that some of the close neighbours in Phillipps Avenue still have some concerns with which I agree and are as follows:

1. The overshadowing and loss of light to the rear of some of these properties, especially the complete loss of the sunrise, early morning light and aspect for number 12 thereby resulting in a loss of amenity.
2. I am not sure whether the residents' concerns about the sunlight path analysis have been sufficiently addressed by the architect, but I am certainly unclear as to whether these have been calculated correctly in this instance and it seems that there is severe overshadowing for at least two or three properties in Phillipps Avenue from early to mid-morning.
3. Two trees have been recently planted adjacent to the site (Amerlanchier Ballerina and Betulis Utils Var. Jaquemonti Moonbeam) by the residents of no. 12 Phillipps Avenue which should also be included in the recent Tree Constraints Plan and prior to any works on site in order to protect them both now and in future.
4. Neighbours are concerned about the health and safety issues during any demolition and build and especially relating to asbestos removal from the current dwelling and the need for a full and detailed asbestos removal plan. We assume that a Construction Environmental Management Plan or similar would be provided by the developer to mitigate against any damage to the environment, wildlife, close neighbours and the general public? This should also include limited times of activity on the site to avoid undue disturbance to neighbours.
5. Neighbours have expressed concern that all the ecological considerations for the safety and habitat of wildlife, as described in the 2019 Ecological Appraisal should be adhered to, especially for nesting birds, hedgehogs and bats.

My own reservations still remain about the effect of this proposal on Hulham Road traffic and other road users, but I now have to accept the professional advice given by the County Highways Authority, which has no objection to the proposed development.

I would disagree with the comment in the latest Design and Access Statement that there is similar shadow casting compared to the existing house because the proposed is further south than the current dwelling, therefore completely blocks the eastern aspect for no.12 Phillipps Avenue, which the existing dwelling does not.

If this proposal is recommended for approval I would request the following conditions:

- The removal of Permitted Development Rights, as proposed by Mr Marchant which would prevent any future additions such as rear overlooking windows or an increase in height. This would help give nearby residents confidence that there could be no further risk to their amenity.
- I would also support the proposed minor hip on the north elevation.
- 1st floor frosted/obscured westward facing ensuite window.
- The two new trees on the boundary with number 12 be included in the Tree Constraints Plan and any other scheme for protection of trees adjacent to the site.
- All the recommendations from the EDDC Tree Officer are complied with.
- The provision of an asbestos removal plan.
- The provision of a CEMP or similar.

Further comments:

I have now read the draft report for 21/0587/FUL and have the following comments.

1. I note that some of the latest comments made by consultees have been omitted in the report and would like them to be included. ie. myself dated 9 July and Cllr Millar dated 2 July.
2. It is unclear whether 5 of the 6 supporters are even neighbours, let alone close neighbours, therefore would not be directly affected by the devt. so it is difficult to understand how their comments are given the same weight as those of close neighbours who would be affected.
3. The visibility splay may be slightly improved but I would suggest that there is no improvement in sight lines as this is the distance from the drive to the southern bend in Hulham Road. So could I suggest that the term 'sight lines' is either omitted or changed to 'visibility splay'?
4. There are 3 references to the 'existing entrance being proposed to be widened' which is incorrect as there would be a NEW entrance next to the current entrance, not a widening. Could these statements please be amended?
5. It is correct to say that there would be 'shading in the very early morning' which would adversely affect the amenity of existing residents, and which is one of the main objections from close neighbours. I would suggest that this is against the provisions of D1 of the Local Plan.
6. Re. the ecological impact, can the LPA insist that ALL construction works are undertaken from September to February to mitigate any harmful impact on nesting birds? (I remember that this applicant undertook tree felling of most of the trees in the garden which was done in the middle of the nesting period, just a few months before the first application, with apparently no heed taken of this risk to birds and other wildlife and I would be most disappointed if this was repeated).
7. Re. Trees - as I proposed in my latest comments, and before any work starts, the two new trees which have been planted by number 12 Phillipps Avenue on the

boundary with the application site to be included in the tree protection plan, along with all other adjacent trees.

8. Re. my other proposed 'conditions' I am glad that permitted development rights have been removed, but could you confirm that this also includes no dormer windows or similar at first floor (and above) level?

Could you also please confirm that the following conditions will be included?

- the minor hip on the north elevation?
- obscure glazed first floor westward facing en-suite window?
- the provision of an approved asbestos removal plan?
- the provision of a CEMP or similar to include limited times of activity on the site to avoid undue disturbance to neighbours?

Finally I wonder whether the issue of the demolition of the garage has been addressed and any negative impacts on the neighbours at 14 Phillipps Avenue, as the garage wall forms part of their garden boundary?

Exmouth Halsdon - Cllr Paul Millar

I object to this application along the same lines as local residents.

Specifically, more information is required regarding:

- 1) Tree Constraints Plan
- 2) Road safety (a key issue of concern in Hulham Road)
- 3) Loss of light for the properties in Phillipps Avenue, following information provided by Edward Gregson-Williams.

Further comments:

I remain concerned about the impact on overshadowing and privacy to the residents of Phillipps Avenue and Hulham Road as eloquently set out by my constituents Ed Gregson-Williams and Charlotte Howes. I am disappointed that the agent refuses to engage with either the Ward Members and local residents showing a lack of openness and transparency with regard to the sunlight pathway analysis. Without further information, I retain my objection to this proposal. I note the improvements to the application, but am confused as to why Devon Highways haven't commented on the creation of an additional entrance point opposite Springfield Road. This will surely have safety implications and it is disappointing to not see these assessed.

Further comments:

I support the principle of a replacement single dwelling with improved access (as road safety on Hulham Road remains a very concerning issue for residents).

However, while welcoming the condition on removal of permitted development rights, I maintain my objection to the application in line with various residents in Phillipps Avenue due to concerns over a lack of information regarding sunlight path analysis and the potential for overshadowing that the development could cause to the residents in Phillipps Avenue. I would wish to be assured that the development does not cause

overshadowing during the daytime to support this application through an independent analysis.

Parish/Town Council

Meeting 12.04.21

Objection on the grounds of over shadowing and the loss of light. Members concurred with the concerns raised by the residents of the Phillips Avenue. The junctions of Hulham Road and Springfield Road was renowned for being a dangerous junction. This revised application did not include a transport assessment unlike previous applications. The findings from the Ecological appraisal dated June 2019 would soon lapse. Members felt that updated report should be submitted.

Further comments:

Objection sustained; the amended plans did not fully address previous concerns raised. It was felt the relocated replacement dwelling would overshadow of properties in Phillips Avenue.

Technical Consultations

Devon County Highway Authority

The site has been the subject of a few planning applications in recent years, however this planning application is a replacement dwelling planning application. Therefore the trip generation can be stated to be of a similar value to that of what the site already has permission for.

The access will be the benefit of improved visibility due to the front wall being lowered to 600mm in height, in addition to the proposed layout giving sufficient space for the turning of vehicles off-carriageway and re-entering the carriageway in a forward facing motion, which is our current requirement for all A, B and C roadside developments.

I would recommend that the bin storage location is re-located to ensure inter-visibility remains for vehicles exiting from 21 and 23 at the same time. Overall, however the County Highway Authority has no objection to this planning application.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

EDDC Trees

Clarification is needed regarding the Tree Constraints Plan as there appears to be two trees plotted as T1.

I have no objection to the proposal however I recommend the following condition is put in place to ensure the long term health and retention of the trees on the neighbouring property, particularly the yew, T2 that has the potential to develop into a good specimen.

(a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a scheme for the protection of the retained trees, hedges and shrubs shall be produced in accordance with the principles embodied in BS5837 :2012, which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

(b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

(c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

Reason: To ensure the continued well being of the trees in the interests of the amenity of the locality.

Other Representations

Representations have been made by 10 interested parties, four raising objections and 6 in support. These are summarised below

Objections

- Loss of sunlight/overshadowing
- Overbearing impact of orientation of the building
- Loss of privacy
- Increase in height
- Loss of outlook
- Detrimental to highway safety
- Increase in traffic
- Conflict with traffic and opposite junction
- Inadequate visibility splays
- Removal of garage resulting in overlooking
- Potential instability created by removal of garage
- Potential health risk arising from demolition of existing property
- Nuisance during construction works
- Potential ecological damage

- Inappropriate design and materials

Support

- Proposal will bring an unused and untidy site back into use
- Existing house has upstairs windows overlooking neighbouring properties
- Shadows caused by new house would not block light into homes
- Design appropriate to mixed character of area
- Existing house of sub-standard construction
- No loss of privacy or overlooking
- Proposed alterations to entrance will improve access to highway for both 21 and 23 Hulham Road
- Turning facility will avoid vehicles reversing onto busy highway

PLANNING HISTORY

Reference	Description	Decision	Date
20/1986/FUL	Demolition of dwelling and construction of 2 new dwellings; formation of new vehicular access onto Hulham Road.	Withdrawn	03.09.2019
19/1442/FUL	Demolition of dwelling and construction of 2 new dwellings; formation of new vehicular access onto Hulham Road	Withdrawn	23.11.2020

POLICIES

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

National Planning Practice Guidance

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 22 (Development at Exmouth)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Exmouth Neighbourhood Plan (Made)

Policy EB2

Site Location and Description

The application site comprises an irregularly shaped area of land housing an existing dwelling, with garage and garden located on the western side of Hulham Road, one of the main arterial roads into Exmouth from the north.

The site slopes gently to the south, with the ground level of the site being slightly raised above that of the adjacent road. It is located within a residential area of mixed character with two storey dwellings to the west and east of the site with bungalows to the north and the rear gardens of properties located in Phillips Road to the south.

Proposed Development

Planning permission is sought for the demolition of the existing bungalow and garage on the site and to construct a new replacement two storey dwelling to the south of the existing. A new detached double garage is proposed on part of the footprint of the existing dwelling. In addition the existing entrance onto Hulham Road is proposed to be widened/extended and the boundary wall to the road frontage reduced in height to provide better visibility in a southerly direction.

During the course of the application the design of the dwelling has been amended by the reduction in the depth of the southern gable by 1m and also the western gable by a metre, which has resulted in a consequent reduction in the roof ridge height of 0.5m so that the proposed dwelling now has the same overall ridge height as the existing bungalow.

Consideration and Assessment

The site is located within the built-up area boundary of Exmouth where the principle of a replacement dwelling is considered to be acceptable. The main issues to consider in determining this application therefore relate to the impact of the replacement dwelling on the character and appearance of the area, the residential amenities of the occupiers of surrounding properties, highway safety, ecology and trees.

Character and Appearance

The site is located within a mixed residential area of Exmouth where there is a wide variety of styles and form of dwellings, with bungalows, chalets and two storey dwellings, both detached and semi-detached in form. Within this context the design, of proposed dwelling with a pitched roof, similar materials and traditional form would not appear to be unduly incongruous or at odds with the prevailing character the dwellings within the vicinity of the site.

Whilst larger than the existing dwelling, and consequently more prominent within the street scene, particularly in views heading north on Hulham Road where the site has been cleared, it would be seen as a new dwelling adjacent to the highway, which is neither unexpected or unusual within the wider residential context of the area. Heading south the dwelling would be largely screened by existing vegetation which

extends to the roadside of the property on the northern side of the site, until reaching the site entrance from where the side elevation will be visible.

It is proposed to set the new property lower within the site than the existing dwelling, cutting into the site on its western side, and whilst it would still be at a higher level than the adjacent road, and its size and scale would be increased over the more modest proportions of the existing dwelling, its overall scale, form and siting is not considered to be unacceptably incongruent or visually intrusive within its wider context such that it would be detrimental to the character and appearance of the area.

On balance, having regard to the above it is considered that the proposal complies with the provisions of Strategy 6 (Development within Built-Up Area Boundaries) and Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan which seeks to ensure that proposals respect the key characteristics and special qualities of the area in which the development is proposed and that the scale, massing, density, height, fenestration and materials of buildings relate well to their context. The proposal is also considered to comply with design policy EB2 of the made Exmouth Neighbourhood Plan.

Residential Amenity

The existing dwelling is modest and sits towards the northern side of the plot, with the garden extending to the south. The proposed siting of the dwelling would extend the footprint of the built form within the existing garden area to the south. In site coverage terms the proposed dwelling would have a smaller footprint than the existing dwelling, although given its two storey form and revised position it will have a greater mass and consequent visual impact than that existing. Having said this, the eaves of the dwelling are relatively low at 4.2m, with hipped roofs reducing the bulk of the building to a similar height to the existing. Whilst the amended siting means that it will be visible from properties to the west, the distances (in excess of 21m) and relationship with the properties in Phillips Avenue is considered to be such that the dwelling would not appear to be unreasonably overbearing or so visually intrusive than permission should be withheld on this basis.

The main orientation of the dwelling is to the south, particularly at first floor, with the main bedroom windows on the southern elevation and the layout indicating that there are no habitable room windows located on the first floor western elevation. The only window on this elevation at first floor serves an en-suite bathroom. As such there would be no loss of privacy arising from the occupation of the property in the submitted layout, although it is considered to be reasonable to require a condition restricting any further windows at a first floor level should the proposal be otherwise acceptable.

Subject to appropriate boundary planting/fencing the position of ground floor windows is considered to be acceptable and will not result in the detrimental loss of any amenity for the occupiers of neighbouring properties.

Concerns have been raised regarding the relationship between the proposed dwelling and the neighbouring properties particularly in respect of the loss of light and consequent loss of amenity for the occupiers of these properties. Whilst these concerns are appreciated, and the dwelling may result in some additional shading in

the very early morning, the orientation of the dwelling in relation to the properties in Phillips Avenue is such that it would be located to the east of the existing dwellings and at a distance that there would not be any substantive loss of sunlight, and no loss of daylight within the properties such that a refusal on this basis could be sustained.

On balance, whilst the increase in the height, bulk and massing would have a degree of additional impact on the occupiers of surrounding properties over that existing, it is not considered that this impact would be significantly harmful to residential amenity in terms of being over bearing or over dominant, loss of light or loss of privacy. The proposal is considered to comply with the provisions of D1 of the Local Plan which seeks to ensure that the amenities of existing residents are not adversely affected.

Having said this it is considered to be appropriate in this instance to ensure that the amenities of neighbouring residents are not compromised by the construction of inappropriate or disproportionate extensions or other outbuildings under permitted development rights following the occupation of the proposed dwelling, and in this instance it is considered to be appropriate to remove permitted development rights relating to extensions and outbuildings to ensure that any proposed future development can be appropriately considered.

Finally, it is appreciated that a wall forming part of the removal of one of the existing garages forms part of the neighbour's garden. If this wall is on the Party boundary, the Party Wall Act will come into force and the applicant will need to consult with the neighbour regarding any works to this wall.

Highway Safety

The application is for the replacement of an existing dwelling on the site. As such, in terms of vehicle movements and use of the access there is no change in the activity levels above that which would arise if the existing dwelling is occupied. Whilst it is appreciated that the dwelling is currently vacant, it remains a dwelling, and it is reasonable from a highway safety perspective to assess the proposal on this basis given that the building could be refurbished and occupied without the need for any further planning permission. At the present time the existing access serves both 21 and 23 Hulham Road, and this situation will not change by alterations to the access.

The application seeks to widen the existing entrance and to provide a visibility splay to the southern side of the access by lowering the boundary wall to 600mm. This will result in improved visibility to the south. In addition a turning area is proposed which will enable vehicles to enter and leave the site in a forward gear, and avoid the need to reverse onto Hulham Road which is what currently happens.

Whilst the concerns which have been raised in terms of highway safety are appreciated, it remains the fact that the access serving 21 and 23 Hulham Road exists and is sub-standard. As such it is considered that any improvement in the access, such as widening the entrance and providing some additional visibility has got to be an improvement in highway safety terms.

Sufficient parking is provided within the submitted layout to serve the dwelling and no objections have been raised by DCC County Highways, and as such the proposal is

considered comply with the provisions of Policies TC7 (Adequacy of Road Network and Site Access) and TC9 (Parking Provision in New Development) of the East Devon Local Plan 2013-2031 and to be acceptable from a highway safety perspective.

Ecological Impact

The application is accompanied by a Preliminary Ecological Appraisal which identifies the potential for nesting birds and hedgehogs to be present and which recommends appropriate mitigation and survey work to be undertake if site construction works are likely to impact on the nesting birds during the period of March to August. Should this be the case, appropriate mitigation should be undertaken in accordance with the submitted appraisal.

Trees

No trees are proposed to be removed as part of the development and the application has been accompanied by a tree report and protection plan to ensure that the trees on site are retained and appropriately protected, both during construction and following occupation of the dwelling.

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. (a) Prior to the commencement of any works on site (including demolition and site clearance or tree works), a scheme for the protection of the retained trees, hedges and shrubs shall be produced in accordance with the principles embodied in BS5837 :2012, which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, [including trees which are the subject of a Tree Preservation Order currently in force], shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

(b) No operations shall be undertaken on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

(c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

(Reason: A pre-commencement condition it required to ensure retention and protection of trees on site during and after construction. The condition is required in the interests of the amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 (Design and Local Distinctiveness) and D3 (Trees and Development Sites) of the East Devon Local Plan 2013-2031)

4. Before development above foundation level is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

5. No development above foundation level shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. 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.)

6. The development shall be undertaken in accordance with the conclusions and mitigation measures contained in the Preliminary Ecological Appraisal undertaken by Western Ecology and dated June 2019.

(Reason: In the interests of ecology and biodiversity in accordance with policy EN5 (Wildlife Habitats and features) of the East Devon Local Plan 2013-2031).

7. The development shall be undertaken in accordance with the conclusions and mitigation measures contained in the Preliminary Ecological Appraisal undertaken by Western Ecology and dated June 2019.
 (Reason: In the interests of ecology and biodiversity in accordance with policy EN5 (Wildlife Habitats and features) of the East Devon Local Plan 2013-2031).

8. 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 shall be undertaken within the Schedule 2 Part 1 Classes A, B, or E for the enlargement, improvement or other alterations to the dwelling hereby permitted, other than works that do not materially affect the external appearance of the buildings, or for the provision within the curtilage of any building or enclosure, swimming or other pool, [other than any enclosure approved as part of the landscape management scheme]
 (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.)

9. 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 windows, doors, rooflights, dormer or other openings other than those shown on the plans hereby permitted shall be formed in the western elevation of the building.
 (Reason - To protect the privacy of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

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:

18008_PL801A	Proposed Block Plan	02.06.21
18008_PL802A	Proposed Floor Plans	02.06.21
18008_PL803A	Proposed roof plans	02.06.21
18008_PL804A	Proposed Elevation	02.06.21
18008_PL901A : Other Plans combined highways		02.06.21

18008_PL903 : Combined Plans 01.03.21
garage
elevations

18008_PL700 Location Plan 01.03.21

List of Background Papers

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

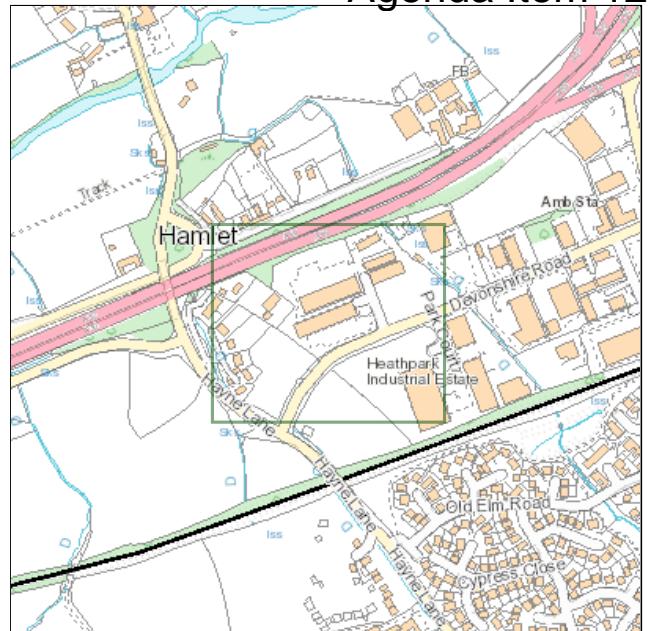
Ward Honiton St Michaels

Reference 21/1420/VAR

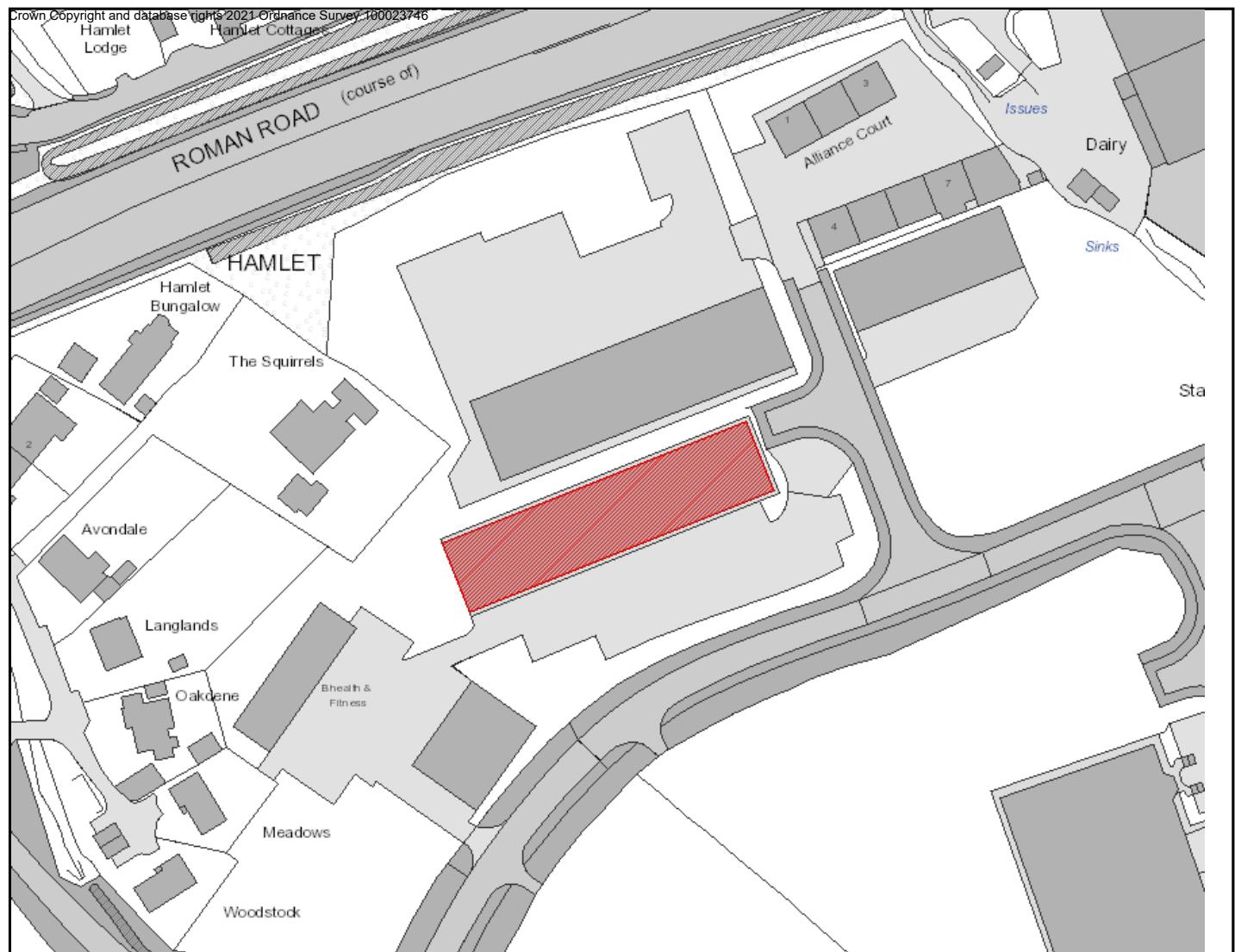
Applicant Mr Craig Bernhardt

Location Unit 5 Weston Park Devonshire Road
Heathpark Industrial Estate Honiton EX14 1ST

Proposal Variation of condition 1 (extension to opening hours) of 19/2150/VAR.



RECOMMENDATION: Approval with conditions



		Committee Date: 4th August 2021
Honiton St Michaels (Gittisham)	21/1420/VAR	Target Date: 20.07.2021
Applicant:	Mr Craig Bernhardt	
Location:	Unit 5, Weston Park, Devonshire Road Heathpark Industrial Estate Honiton EX14 1ST	
Proposal:	Variation of condition 1 (extension to opening hours) of 19/2150/VAR	

RECOMMENDATION: APPROVAL with conditions

EXECUTIVE SUMMARY

The application is before committee because the officer recommendation differs from that of one of the ward members.

The proposal seeks to extend the opening hours of an existing gym to allow it to be open 24 hours a day and 7 days a week. The hours of opening currently being restricted to 6:00 to 22:00 on Mondays to Fridays and 08:00 to 18:00 Saturdays, Sundays and Bank Holidays.

The gym is located at the western end of Heathpark Industrial estate, Honiton and occupies a two storey industrial style building. There are other commercial/industrial premises to the east and residential development to the west. The A30 lies beyond the site to the north.

The proposed extension of the opening hours has the potential to give rise to additional noise impacts due to the operation of the gym at times where the background noise environment may be quieter. There have been a number of objections to the application from local residents who have raised specific noise concerns in relation to the current use and where there are no restrictions, or control, over potentially noisy activities, such as the playing of amplified music.

Whilst it would not be appropriate to seek to introduce measures through this planning application that seek to restrict the way in which the gym currently operates (although there are other means by which noise issues can be investigated and dealt with) it is necessary to consider whether adequate control could be placed on any extended hours of opening to adequately protect residential amenity.

The Environmental Health Officer has not objected to the scheme but has recommended a detailed condition requiring submission of a Noise Management Scheme to control noise during the proposed extended hours of opening. Without such a condition the proposal would likely be considered unacceptable, but through its imposition can be made acceptable, as such, and where the application is otherwise considered acceptable, the application is recommended for approval.

CONSULTATIONS

Local Consultations

Honiton St Michaels - Cllr Mike Allen

Although the site is some distance from housing I do believe a restriction on opening hours should remain in force at least from 12 midnight to 6 a.m. to avoid traffic noise disturbance.

Honiton St Michaels - Cllr Phil Twiss

This is a valuable health and well being operation sited close to residential properties but unlikely to have any adverse impact with people arriving or leaving the site, given the entrance is situated on Devonshire Road and I support the extension of proposed hours of operation.

Parish/Town Council

Gittisham parish councillors object to this application on the grounds of adverse impact on a residential amenity.

Technical Consultations

Environmental Health

07.06.21 - I have considered the application 21/1420/VAR and I recommend approval with conditions:

Prior to extending the hours of operation, a Noise Management Plan (NMP) will be submitted for approval by the Local Planning Authority. On written approval of the NMP by the Local Planning Authority, the NMP will be implemented and operated during the hours of operation on the premises. The NMP must detail the methods by which the gyms management will systematically assess, reduce and prevent noise emissions from the premises, through operational managerial techniques and abatement technologies. The NMP will identify and employ appropriate measures to minimise the generation of noise from the premises and will include:

- o The control noise from the use of audio equipment at source by good operational practices through staff training.
- o A noise limiting device must be installed and operated at all times when audio equipment is being used at the premises. The noise limiting device shall only be operated the set level approved in writing by the Local Planning Authority. The device must have sufficient management controls in place to ensure that it cannot be bypassed or tampered with once the approved level has been set.

o All external doors must be kept shut at all times when the premises is being used. Doors may be opened for normal entrance and egress of people but must be shut immediately thereafter.

o Clear and legible notices must be prominently displayed in the car park area requesting customers to respect the needs of local residents and enter and leave the area quietly.

The NMP should be periodically reviewed (at least once per year) and updated where necessary or when any of the following occur:

o Significant changes are made to premises, audio equipment or operational practices on the site.

o The Local Planning Authority requests that the NMP is updated.

o Complaints are received, which on subsequent investigation result in the identification of further control measures or remedial action, in addition to those already set out within the NMP.

24.06.21 - Revised comments:

I'd be happy with changing the condition to read:

Prior to extending the hours of operation as hereby approved , a Noise Management Plan (NMP) shall be submitted to and approved in writing by the Local Planning Authority. Any NMP so approved shall be implemented and operated during the extended hours of operation (these being at all times outside of the hours of 06:00 to 22:00 on Mondays to Fridays and 08:00 to 18:00 Saturdays, Sundays and Bank Holidays). The NMP must detail the methods by which the gyms management will systematically assess, reduce and prevent noise emissions from the premises, through operational managerial techniques and abatement technologies. The NMP will identify and employ appropriate measures to minimise the generation of noise from the premises and will include:

o The control noise from the use of audio equipment at source by good operational practices through staff training.

o A noise limiting device must be installed and operated at all times when audio equipment is being used at the premises. The noise limiting device shall only be operated the set level approved in writing by the Local Planning Authority. The device must have sufficient management controls in place to ensure that it cannot be bypassed or tampered with once the approved level has been set.

o All external doors must be kept shut at all times when the premises is being used. Doors may be opened for normal entrance and egress of people but must be shut immediately thereafter.

In addition, details of clear and legible notices to be prominently displayed in the car park area and requesting customers to respect the needs of local residents and enter and leave the area quietly, shall be submitted for approval as part of the NMP. Signage as agreed shall be displayed in accordance with these details and maintained thereafter.

The NMP should be periodically reviewed (at least once per year) and updated where necessary or when any of the following occur:

- o Significant changes are made to premises, audio equipment or operational practices on the site.
- o On request of the Local Planning Authority
- o Complaints are received, which on subsequent investigation result in the identification of further control measures or remedial action, in addition to those already set out within the NMP.

Other Representations

3 letters of objection have been received raising the following issues:

- Concerns over impact of noise from gym opening 24/7
- Bass music can be heard from adjoining properties, if there was no music there would be no concerns with extended opening times.
- The music is too loud due to the thin nature of the building walls and when doors are left open.
- Concerns if members using the gym have access to the sound system without the supervision of staff.

PLANNING HISTORY

Reference	Description	Decision	Date
19/2150/VAR	Variation of condition 3 of application 17/0428/FUL (change of use of building from B1/B8 (light industry/storage) to D2 (health club and gymnasium) together with the insertion of a first floor and associated external alterations) to permit extended opening hours	Approval with conditions	12.11.2019

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies
Strategy 6 (Development within Built-up Area Boundaries)

D1 (Design and Local Distinctiveness)

EN14 (Control of Pollution)

Strategy 23 (Development at Honiton)

Government Planning Documents
NPPF (National Planning Policy Framework 2019)
National Planning Practice Guidance

Site Location and Description

The application relates to an existing commercial warehouse style unit located at the western end of the Heathfield Industrial Estate on the west side of Honiton and south of the A30. The building is two storey and in use as a health club/gym. It is set down and back from the estate road and between neighbouring larger industrial units to the east and a small group of residential properties to the west, the gardens of which wrap around to the north of the site.

The site lies within the built-up area boundary of the town.

Proposed development

Permission was granted by application 17/0428/FUL to change the use of the unit to its current use from a B1/B8 use. Condition 3 of the original permission restricted the opening hours of the gym to the following:

07:00 to 21:00 on Mondays to Fridays
08:00 to 17:00 Saturdays and
09:00 to 13:00 on Sundays and Bank Holidays.

The reason given for the imposition of the condition was to protect the amenity of nearby neighbours.

A subsequent application in 2019 (19/2150/VAR) was granted permission to vary the opening hours to:

6:00 to 22:00 on Mondays to Fridays
08:00 to 18:00 Saturdays, Sundays and Bank Holidays.

The current proposal seeks to remove all restrictions on opening times to allow the business to open 24 hours a day 7 days a week.

ANALYSIS

The main issue for consideration is the acceptability of the extended open hours on the amenity of nearby residents.

Amenity Impact

The applicant is seeking to extend the opening hours of the business to allow 24/7 operation of the gym in order to meet customer demand. It is suggested that they have had numerous enquiries about earlier and/or later opening times to work around work commutes/shift patterns etc. The applicant has also pointed to other businesses operating without restriction in nearby towns and that they have lost members as a result of this.

It is further advised that the extended opening hours would operate with full CCTV provision as well as Panic Alarms, Comprehensive Anti-Tailgating Door Entry System and Fully Manned Outsourced Surveillance during unstaffed hours.

The principal issue to consider with regards to the proposal is the impact on amenity of neighbouring occupiers, particularly with regards to noise resulting from the operation of the gym.

At the time of determination of the previous application the Environmental Health team were consulted and advised that they had no objections to the extended opening hours proposed and that they had received no complaints regarding the use of the gym. The applicant has similarly suggested that they have received no objections to the operation of the premises.

In response to the current application there have been representations from three local residents and all of which have raised issues with noise. The particular concern appears to relate to the playing of amplified music and specifically that with a heavy base line.

Policy EN14 of the Local Plan seeks to prevent development from that would result in unacceptable levels of pollution to residents or the wider environment, noise and/or vibration is listed as one particular potential pollutant effect. Policy D1 similarly seeks to protect the amenity of occupiers of adjoining residential properties.

Para. 180 a) of the National Planning Policy Framework (NPPF) also seeks to ensure that new development takes into account the likely effects (including cumulative effects) of pollution and where appropriate mitigates and reduces to a minimum potential adverse impacts resulting from noise from new development – and avoids noise giving rise to significant adverse impacts on health and the quality of life. Advice is given in the National Planning Practice Guidance on determining noise impacts and where relevant on how such impacts might be mitigated.

The Council's Environmental Health team have assessed the application and the potential for it to give rise to additional amenity impacts. In order to seek to control noise outputs from amplified music and to control other noise impacts that could arise from the use of the gym outside of its current opening hours a condition is recommended. Such a condition would require submission of a Noise Management Plan (NMP) for approval prior to any extension of opening hours. The NMP would be required to provide details of how noise resulting from the use would be assessed, reduced and prevented through operational managerial techniques and abatement technologies. Specifically it would need to show how audio equipment would be controlled including the use of noise limiting devices. In addition it would require the closure of external doors other than when the building is being accessed or exited. The suggested condition also includes a mechanism for the review of and amendments to the required NMP should further measures be required.

CONCLUSION

There are concerns from neighbouring occupiers as to how the extension to the opening hours proposed might exacerbate existing noise concerns. These concerns

appear to relate predominantly to the playing of amplified music on the premises and over which there is currently no control. Subject to suitable control over and regulation of music noise and to other proposed measures being introduced, to reduce the noise impacts from the development, the use of the premises for the extended time period can be considered acceptable. The proposal would assist in supporting the existing business and help to promote health and safe communities, one of the key objectives of the NPPF.

RECOMMENDATION

APPROVE subject to the following conditions:

1. Prior to extending the hours of operation as hereby approved, a Noise Management Plan (NMP) shall be submitted to and approved in writing by the Local Planning Authority. Any NMP so approved shall be implemented and operated during the extended hours of operation (these being at all times outside of the hours of 06:00 to 22:00 on Mondays to Fridays and 08:00 to 18:00 Saturdays, Sundays and Bank Holidays). The NMP must detail the methods by which the gyms management will systematically assess, reduce and prevent noise emissions from the premises, through operational managerial techniques and abatement technologies. The NMP will identify and employ appropriate measures to minimise the generation of noise from the premises and will include:
 - o The control noise from the use of audio equipment at source by good operational practices through staff training.
 - o A noise limiting device must be installed and operated at all times when audio equipment is being used at the premises. The noise limiting device shall only be operated the set level approved in writing by the Local Planning Authority. The device must have sufficient management controls in place to ensure that it cannot be bypassed or tampered with once the approved level has been set.
 - o All external doors must be kept shut at all times when the premises is being used. Doors may be opened for normal entrance and egress of people but must be shut immediately thereafter.

In addition, details of clear and legible notices to be prominently displayed in the car park area and requesting customers to respect the needs of local residents and enter and leave the area quietly, shall be submitted for approval as part of the NMP. Signage as agreed shall be displayed in accordance with these details and maintained thereafter.

The NMP should be periodically reviewed (at least once per year) and updated where necessary or when any of the following occur:

- o Significant changes are made to premises, audio equipment or operational practices on the site.
- o On request of the Local Planning Authority
- o Complaints are received, which on subsequent investigation result in the identification of further control measures or remedial action, in addition to those already set out within the NMP.

(Reason – In the interests of protecting the amenity of neighbouring occupiers and to appropriately manage noise emanating from the site in the interests of minimising noise pollution, in accordance with policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan and guidance in the National Planning Policy Framework and accompanying Planning Practice Guidance.)

2. The building shall only be used as a gymnasium and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
(Reason - To ensure that the social benefits of the proposal, which are given significant weight in the planning balance, are not diminished and to prevent other potential uses which would be unsuitable within this designated employment area, in accordance with Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings) of the adopted East Devon Local Plan 2013-2031and guidance contained within the National Planning Policy Framework.)
3. The first floor window on the north west elevation of the building shall be fitted with obscure glazing up to a height of no lower than 1.7 metres above any part of the internal floor level of the area in which the window has been installed. The obscure glazing limitation required by this condition shall be retained thereafter.
(Reason - To maintain the private amenity of the occupiers of the properties to the rear of the site, in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031).
4. The development shall be carried out in accordance with the approved Travel Plan, received 5th July 2017 and as approved under discharge of condition notice dated 28th July 2017 submitted in relation to application 17/0428/FUL. This plan shall be monitored and reviewed on an annual basis and a copy of that annual review and action plan arising shall be submitted to the Local Planning Authority. The development shall be carried out in accordance with the agreed travel plan and subsequent revisions.
(Reason - To promote and secure sustainable modes of transport, in accordance with Strategy 5B (Sustainable Transport) of the adopted East Devon Local Plan 2013-2031, and guidance contained within the National Planning Policy Framework).
5. The parking spaces, as shown on the approved plan PIN981(10)01 (and limited to the land within the red edge drawn on plan PIN981(10)03) received by the Local Planning Authority 27th March 2017) and relating to application 17/0428/FUL shall be retained and kept available for those purposes at all times.
(Reason - To ensure that adequate and safe provision is made for the occupiers and in the interests of highway safety in accordance with the requirements of Policy TC7 - Adequacy of Road Network and Site Access of the Adopted New East Devon Local Plan 2013-2031.)
6. The landscaping, cycle parking and external lighting related to the site, as shown on drawing non YGSWB/PIN/CF/01 B dated 27th July 2017 and approved under discharge of condition notice dated 28th July 2017, relating to application

17/0428/FUL shall be carried out as approved and shall be maintained for a period of 5 years from the date of implementation. 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 - In the interests of the character and appearance of the development and highway safety and to ensure that adequate and safe provision is made for employees and visitors to the site in accordance with Policies D1 (Design and Local Distinctiveness), D2 (Landscape Requirements), TC4 (Footpaths, Bridleways and Cycleways) and TC9 (Parking Provision in New Development) 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.

The historical planning application is referenced under (17/0428/FUL) for which the approved plans were as follows:-

PIN981(2)-01	Location Plan	27.03.17
PIN981(1)01 :	PROPOSED Layout	27.03.17
PIN981(10)02 :	APPROVED Layout	16.02.17
PIN981(10)03	Block Plan	27.03.17
PIN981(14)01	Proposed Combined Plans	16.02.17
PIN981(14)02	Existing Combined Plans	16.02.17

This decision notice for the variation should be read in conjunction with these previously approved plans.

List of Background Papers

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

Agenda Item 13

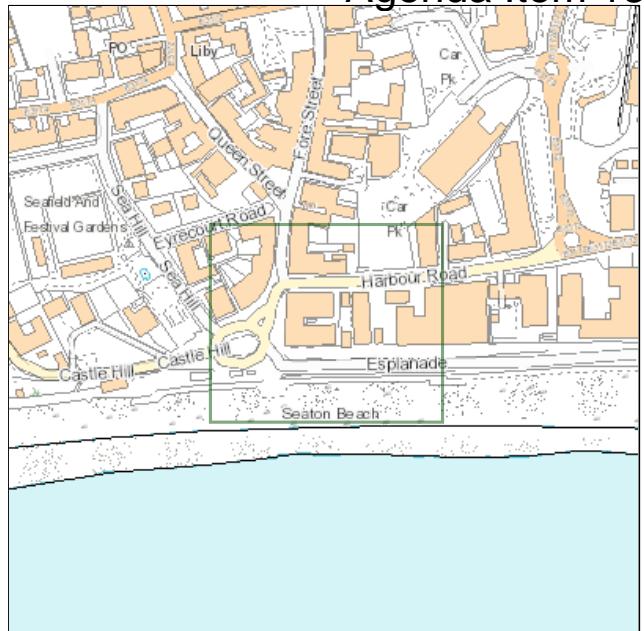
Ward Seaton

Reference 21/0891/FUL

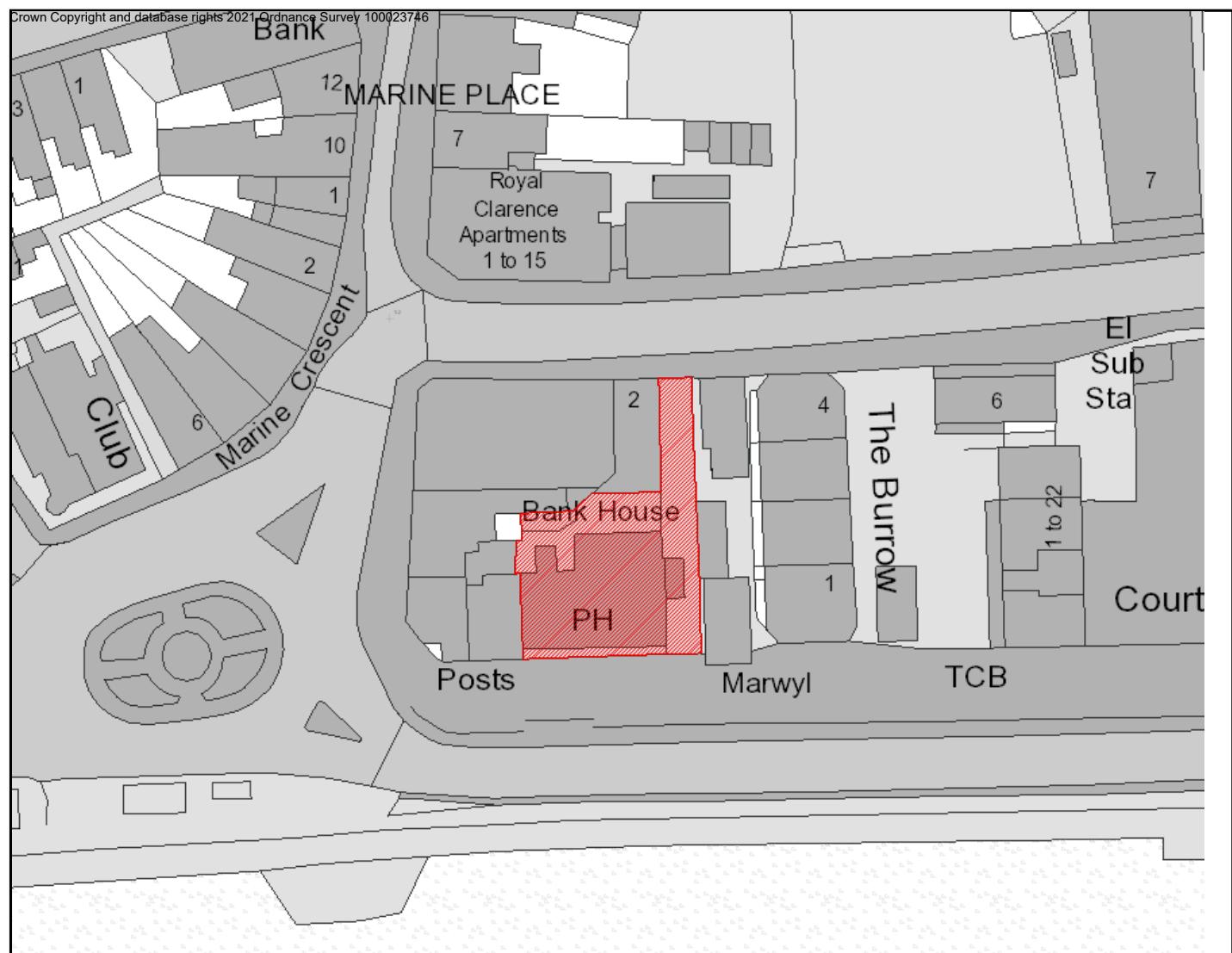
Applicant Wilkins

Location Hook And Parrot Inn East Walk Seaton EX12 2LN

Proposal Demolition of existing public house and 3 residential apartments and construction of replacement bar/restaurant and 9 apartments.



RECOMMENDATION: Refusal



		Committee Date: 4th August 2021
Seaton (Seaton)	21/0891/FUL	Target Date: 11.06.2021
Applicant:	Wilkins	
Location:	Hook And Parrot Inn East Walk	
Proposal:	Demolition of existing public house and 3 residential apartments and construction of replacement bar/restaurant and 9 apartments.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

The application is before committee because the officer recommendation differs from that of one of the wards.

The proposal seeks permission for the demolition of the existing building housing a public house and 3 no. residential flats with a 4 storey building comprising of a basement parking area, ground floor commercial use and 9 no. residential units arranged over the upper floors.

The proposal site occupies a prominent position on the Esplanade and within the designated conservation area. The proposal scheme would be visible from views along the seafront from the east and west as well as, due to its height, views from the public car park and other viewpoints to the north. The site lies within the town centre shopping area.

The conservation officer has raised concern with regard to the loss of the existing building as well as the impact of the proposed replacement building on the conservation area. Those concerns relate to the loss of architectural and community value that the existing building holds as a traditional Victorian building and one of the first on the Esplanade, as well as its role as a drinking establishment serving the town for well over a century. Whilst the building has been extended and altered over the years it retains many of its historic features and there is concern that proposals for its retention and refurbishment do not appear to have been considered.

In relation to the proposed replacement building the design, both in terms of the impact on the conservation area and in more general terms, is found to have little contextual relevance; to be out of scale (in both height and massing) with and dominating of surrounding development and seeks to utilise materials that are

both austere and out of keeping. Taken as a whole the proposal is considered to result in substantial harm to the significance of the conservation area and to result in an inappropriate and over powering building that would fail to take the opportunity available for improving the character and quality of the area.

In other regards the proposal fails to consider the potential impact of the development on the amenity of adjoining occupiers both in terms of overshadowing/loss of light and loss of privacy and where as a result harm would arise due to the increased height and massing of the building and the increased opportunities for overlooking from the rear elevation of the building.

It is acknowledged that the proposal would bring the site back into active use and would give rise to a number of not insignificant direct and indirect economic benefits including the creation of an estimated 30 full/part time jobs in the restaurant. This weighs in favour of the proposal as does the moderate benefits arising from the creation of 6 additional residential units. However these benefits when balanced against the harm that would arise to the conservation area are not considered to outweigh that harm.

As a result of the harm to the conservation area in particular and the wider area more generally and the impact on the amenity of neighbouring occupiers the proposal is recommended for refusal.

CONSULTATIONS

Local Consultations

Seaton - Cllr Marcus Hartnell

I have no objection to the application and agree with the comments raised by the Town Council.

Parish/Town Council

Seaton Town Council have no objections to the principle of development of the site and support the application.

There are a few points which the Planning Committee raised which they would like the district council to take into consideration when making a decision on this application and any conditions applied to the granting of planning permission as are necessary. These points are:

' The Planning Committee thought the proposed colours of the development were too dark and would like to see materials of a lighter colour used which reflects the sites position on the seafront. This would soften the image of the building and make it appear less tall .

' The Planning Committee would like to be certain that the balconies on the southern elevation of the building do not encroach across the building line and would like this checked by the Officers at the district council.

' In light with the Town Council's Environmental Policy the Council would like to see more information with regards to the environmental credentials of the building and particularly the apartments.

' With regards to the opening hours of the bar/restaurant the Council are concerned that any noise generated by the business does not have a negative impact on the residents of neighbouring dwellings and apartments. They noted that Environmental Health mentioned in their submission for the application that construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays, but do not mention what they consider are reasonable opening hours for the bar/restaurant so as to not have a negative impact on the occupiers of neighbouring properties.

' Concerns were raised about the provision of car parking to the rear of the development. It was noted that the access to the parking area is down a very narrow driveway which exits onto Harbour Road. The Police state on <https://www.askthe.police.uk/> 'It is not illegal to reverse into a main road but it is not advisable - this is for safety reasons'. Some measures should be put in place to prevent a vehicle having to reverse onto Harbour Road if there is another vehicle trying to exit the car park at the same time or having to reverse out due to the fact there is not enough room to turn around safely in the car parking area. The Council would like clarification on what measures will be taken to ensure vehicles can safely enter and exit the car parking area.

' On the plans submitted with the application it shows that in Units 1, 2, 5, 4 & 8 Bedroom 2 does not have any obvious means of escape. Bedroom 2 in Units 1 & 4 appear to be adjoining the wall of the neighbouring apartment with no window or means of escape and with Units 2, 5 & 8 being in between units, again there appears to be no window or means of escape and all units have no natural light coming into them. The Council would like this clarified and any amendments made to the plans if necessary.

Technical Consultations

Environmental Health

I have considered the application 21/0891/FUL and I recommend approval with conditions:

Due to the close proximity of other sensitive receptors, a Construction and Environment Management Plan must be submitted and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters : Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site.

Noise data will need to be submitted for the lift and for any kitchen extraction system.

Reason: To protect the amenities of existing residents in the vicinity of the site from noise, air, water and light pollution.

Conservation

The significance of this site is by virtue of its archaeological value as evidenced by the numerous records held within the Devon Historic environment Record (HER) and elsewhere. It has historical value by virtue of the former uses e.g. salt, fishing of the site and then the later change in the late 19th century with the town becoming more of a tourist destination with the arrival of the train line. The Architectural value is through its architectural style. A traditional Victorian building with sash windows with a vertical emphasis. Typical features are the main roof, in this case the main ridge line follows the others in a West-East linear form. These main roofs have a distinctive secondary gable feature as well as the chimneys on the ridge. This is further enhanced by the traditional materials such as the natural slate roofs, painted render, timber doors and windows and timber (projecting) fascia's. There is an additional communal value as it is evidenced that this has been a drinking establishment (of different types) that has been enjoyed for well over a century to the present. The setting makes a positive contribution by virtue of its group value of the Victorian architectural aesthetic that share common features such as the windows, main roof, chimneys and the smaller gable feature. The setting of the conservation is severely compromised by the modern developments to the East of the site, however these are rightly outside of the conservation area boundary and are considered to be of no value within some degree of harm to the setting of wider and distant historic landscape.

The existing building retains many key historic features that identifies it as being of Victorian origin. It has the main, natural slate roof, chimneys, decorative projecting fascias (as seen in the East gable end), the smaller gable feature on the front (South). Vertical timber sash windows (as found on the upper floors and rear main section. The ground floor has lost all of its pleasing symmetry with its former central doorway, however, it there has been sufficient photographic evidence submitted to inform some degree of reinstatement.

The rear lower ground and ground floor extensions are of no value and there is scope to remove these to better reveal the historic main construction. The current condition of the building has not been considered as a suitable justification for any loss (as per section 16 of the NPPF, para 191). It is always beneficial to maintain regular maintenance of any building.

There seems to be insufficient justification for the total demolition of the existing building. It is not supported by a robust condition survey. Demolition is contrary to meeting the government's target of being carbon neutral by 2050. Current research shows that sympathetically upgrading and reusing existing buildings, rather than demolish and build new, could greatly improve a building's energy efficiency. It would also make substantial energy savings with its CO₂ emissions as they are already embodied within the existing building and not lost through demolition. Historic England state that; " Demolishing buildings also not only produces millions of tonnes of waste (one third of all waste produced in the UK every year comes from construction and demolition), but building new has high energy costs, guzzles resources and accounts for 26% of the world's plastic consumption".

The proposal has been designed out of context to the local vernacular (i.e. Victorian aesthetic), albeit in a sympathetic 21st century response. The small gable feature has been taken to an extreme to the detriment of the character of the roofscape of the town and its conservation area. The roof height overwhelms the setting and nearby historic buildings. There are principle views to and from this site, in part due to its seafront location. The materials although the natural slate for the roof is welcomed, it makes no reference to re-using any existing materials from site. The black brick built constructions has no relevance at all to the setting and am at a complete loss to comprehend its use in this way for this traditional East Devon site. There is some vertical emphasis to the fenestration, however this is to the detriment by its proportion to the building as a whole.

The Seaton Conservation Appraisal makes reference to the impact of harm on character (section 10), "The character and appearance of the conservation area is considered to be suffering as a result of the following detracting features..... instances close to or on the seafront where original frontages are being unduly compromised by barely restrained seaside commercialism introducing a cocktail of contemporary artificial materials, intentionally eye-catching, but that can be judge as having little regard to the historic context, to original architectural detail".

The red boundary line seems to have changed from the location plan to the proposed drawings, with the front (South) elevations and the balconies protruding forward of the adjacent building frontages. There is great concern that should there be a recommendation for approval, that there is no certainty of any development after total demolition of this historic building.

In conclusion, taking into consideration the lack of justification to retain the historic building (although there is scope for some change), being contrary to the government's targets to achieve carbon neutral, a design that is entirely out of context, its size and massing, the proposed unsympathetic materials, the singular black dominant colour of the building, it has a negative, cumulative impact on the significance of the conservation area. It is considered that the development would lead to substantial harm to the designated heritage asset.

Environment Agency

Environment Agency position

We have no objection to this proposal.

Reason

The Flood Risk Assessment (FRA) prepared by RMA Associates (ref. RMA-C2121, dated 04 March 2021) has been reviewed. The Environment Agency can agree with the conclusions and recommendations of the report.

Advice - Flood risk

Going forward, we advise that the proposals look to specify more definite flood resistance and resilience measures to account for potential flood risks, in extreme events, to the basement/lower ground floor. It is felt that the provision of a flood barrier would be appropriate to prevent the entry or flood water at this level.

Similarly, finished levels on the basement/lower ground floor should allow for flood waters to drain in the event of inundation.

Contaminated Land Officer

I have considered the application 21/0891/FUL and I recommend approval with conditions in relation to contaminated land.

Where's there's a risk of pollution/contamination being caused by the demolition of structures from the development site the developer must undertake a risk assessment identifying the potential risks for airborne nuisance, additional land/water contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors. The demolition should be carried out in such a manner as to minimise the potential for airborne nuisance, additional land contamination and/or the creation of additional contamination pathways either on the site or at adjacent properties/other sensitive receptors.

Should any contamination of soil and/or ground or surface water be discovered during excavation of the site or development, the Local Planning Authority should be contacted immediately. Site activities in the area affected shall be temporarily suspended until such time as a method and procedure for addressing the contamination is agreed upon in writing with the Local Planning Authority and/or other regulating bodies.

Reason: To ensure that any contamination existing and exposed during the development is identified and remediated.

DCC Flood Risk SuDS Consultation

Recommendation:

Although we have no in-principle objection to the above planning application at this stage, the applicant must submit additional information, as outlined below, in order to demonstrate that all aspects of the proposed surface water drainage management system have been considered.

Observations:

We are delighted that a rainwater harvesting tank is being proposed as part of the surface water management strategy for this site. Attenuation will take the form of underground attenuation and permeable paving to limit runoff to 1.39 l/s for the design storm event.

The applicant should submit a plan indicating how exceedance flows will be managed at the site. The applicant should indicate who is likely to be responsible for maintaining the surface water drainage at the site and provide maintenance schedules for all components proposed within the surface water network.

EDDC Urban Designer

Key points:

- For its context within this particular urban block within the Seaton conservation area the proposal has too great a scale and massing

- The apparent precedent is not quite right for the location but the interpretation of it is also not right
- The materials chosen do not fit with the context or apparent precedent. If the black brick continues to be used in any re-design there should be a clear explanation for their use that follows a design logic
- The structural solution to the building is not apparent though the design appears to present significant challenges, particularly with unsupported overhangs and significant clear spans at ground and lower ground floor levels. This may force a redesign
- The parking area does not afford much manoeuvring space. Reversing either in and out of it is not an option.

Key recommendations:

- Reduce the height by 1 storey
- Find a more appropriate precedent either through clearer reference to the physical surroundings or by closer research of the history of the site and the town. Would suggest not recreating a gun-battery
- Provide evidence that the structural solution for the building is workable or revise the design to be structurally sound
- Provide evidence that the parking area provides adequate space for manoeuvring or redesign.

Introduction

The comments made here will be largely structured around the National Design Guide and will use this document and other current design guidance as the basis on which to consider this application. I will not make any exhaustive descriptions of the site or proposal where this has already been covered by the applicant. However, I will provide additions or corrections where this is appropriate and relevant to the proposal and the comments made.

Context

The site is part of the sea-front at Seaton running between the old town and the harbour at Axmouth. This area of land is within the estuary of the river Axe that over the course of centuries has silted up. This was historically used as salt pans before the building of the railways opened up the area to travel and ultimately to tourism. Seaton catered for a less wealthy visitor than those in Exmouth. Up until this point Seaton was largely dependent on salt production, fishing and coastal shipping of goods and passengers. Tourism has never had the same success at Seaton as for other nearby towns such as Exmouth.

The existing building on the site was one of the first buildings to be developed on this seafront along with the Beach Hotel about 200m to the east. It was originally a single storey café with owner's accommodation attached within a two storey bay-fronted house. A cluster of other buildings, also primarily for tourists, developed around it soon after to form a small urban block of late Victorian and Edwardian buildings all of which are between two and three storey as are most of those in the rest of the conservation area. The café building had an additional floor added in the 1920's to form the building that is there today, though windows and front façade have been altered. This block is the only part of the seafront within the Seaton Conservation Area, reflecting the age

of the buildings, their history as part of the earliest development on the seafront, and the fact that their massing has remained largely unchanged since the early 20th century, although the facades have suffered a lot of unsympathetic changes in the same way as the building on the site.

Since that time, development of holiday accommodation, care homes and individual homes has taken place along the whole seafront between Seaton and Axmouth. The buildings are all 2-3 storey apart from one that reaches 4 but within a mansard. The three exceptions to this are the three closest apartment blocks of 7, 4 and 6 storeys. The nearest, the 7 storey tower, was designed in the 70s to reflect its seaside location by being the architectural equivalent of a bag of smashed crabs. The two others complete a trilogy of mediocrity that work hard to reduce the attractiveness of the seafront. These should not be taken as precedent and should not be taken as a context with which to fit.

Response to context

The Design and Access Statement correctly notes that there has been a recent change in design quality and ambition of buildings in this part of Seaton. The proposal wants to continue this trend and in some respects does so.

It clearly aims to demonstrate ambition on the part of the designer and client. The proposal makes a break from the appearance of the buildings around it to both positive and negative effect.

The proposal replaces the existing buildings with one of 4 storeys with a deep plan compared to the existing building and the rest of the block. Those in the block it sits within are two and three storey, as are most in the rest of the conservation area.

To work with the conservation area context the design of anything new here needs to create a design narrative that references either the physical surroundings or the history of the site. In this case it appears that the design references bonded warehousing to provide a 'back-story' explaining a building of this scale where everything else is much smaller. This precedent would be appropriate in a maritime, river or canal-side location with an industrial-era mercantile history but this is not the case for Seaton. Before tourism the town's economy was based on fishing and fish tend not to respond well to being warehoused. In a maritime environment this form of warehousing also tends to be set back from the seafront to reduce exposure to the weather and the sea and the risk of materials and goods being spoiled. If the warehousing were for salt this would still be the case, given the affinity that salt has for water. This makes the precedent inappropriate for this location.

The choice of colour for most of the elevations may have been chosen to reflect the warehouse or industrial-era precedent but the material itself, black brick, does not lend itself to this. If elevations appeared black on this style of building at this time it would have been because they used hung-slates as weather protection or creosoted timber planks. Black bricks were rare, relative to standard red bricks, and used sparingly only where their harder wearing properties were needed.

Design identity and form

The proposed building has a distinct identity that sets it apart from its neighbours. This is not in itself a bad thing though an identity needs to be appropriate to the building and the area around it even if to contrast with it.

The enclosed balconies are a good feature but the design needs attention, especially the materials, more on which below. Design could change if a different precedent or other design language is used in any redesign that addresses other issues.

The material choice of brick is puzzling, especially for the enclosed balconies. A particular quality of bricks is that they are heavy. This becomes very noticeable when trying to support a lot of them stacked on top of each other. Overhanging structures were seldom made of brick for this reason and lighter materials were used, such as timber. Given that it is not just the balconies but the whole of the front façade above ground floor level that overhangs this is a significant break from any historic precedent. This brings up the puzzling structure of the building. The ground and lower-ground floors have large clear spans, no apparent structural frame and standard thickness perimeter walls. This would suggest either great structural ingenuity or that the building might become much shorter all of a sudden. It would be good to understand what is going on so there can be some confidence in the structural solution for this building as otherwise this in itself is going to force a redesign that will certainly change the appearance overall.

Movement

The parking does not appear to be enough space for manoeuvring into and out of the spaces at the western end. Tracking diagrams would be helpful to see whether the space works and whether there is enough space for cars to turn and avoid having to reverse in or out.

Providing charging to each space is good to see.

Nature and public space

There is no natural or green space on the site at present and the proposal does not change this. It would be good to incorporate some planting or other landscaping to the front of the building.

Homes and Buildings

Floor plans of the flats:

- Balconies are a usable size so that is good. Bi / tri-fold doors are also good to enable good links between indoor and outdoor space.
 - o The flats are very deep, following the footprint of the building. This results in several bedrooms having no - Natural light which, although not a deal breaker, is not particularly attractive either. It also means there is a question over the supply of fresh air and ventilation to these rooms.
 - Can't understand why the bathroom and entrance hall is different between the eastern flats on the floorplate and the other two. This seems a needless waste of space. It would be good to understand this design decision as on the face of it there

is a loss of space and increased external wall surface, increasing costs and decreasing thermal performance.

- The design point above also increases the amount of space where there is a degree of uncertainty over ownership and management. This could be easily avoided so some reasoning behind this decision should be provided.

Floor plans of the restaurant and parking:

- The restaurant floor area seems ambitious. Either that or it is designed specifically for people suffering claustrophobia, which if true is laudable but perhaps a bit too niche.
- Good to see electric car charging for all parking spaces.
- The parking area appears to have limited manoeuvring space so may force people in some spaces to reverse in and out. Tracking diagrams would be helpful to provide assurance that space is indeed adequate
- There does not seem to be adequate structure on these floors that explains how the rest of the building will stay up. Perhaps structural engineering has moved on a bit recently but some evidence for how this is going to work would be very helpful. Otherwise there is going to be a substantial redesign.

Lifespan

The structure of the building does not look convincing so the lifespan could be very short. The materials indicated are durable but not suited to the context.

Conclusion

It is good to see that the design approach is quite crisp and modern while still referencing the past. The way this building relates to the immediate context demonstrates that some thought and consideration has been given as a way of explaining the scale and massing. However, the precedent does not work in this location as it does not fit with any part of the history of site or of Seaton. A better precedent would be to work with the tourism background of the area and a more light-hearted appearance; either that or a more in depth study of the history of the area and Seaton could suggest another design approach that would work and create interest.

The scale and massing as presented it too great relative to surroundings. A reduction of one storey would be an easy way to make any design fit better with the context but otherwise a half-storey with accommodation in roof-space may work better. Floor to ceiling heights should remain as they are so they continue to line through with the other buildings in the block.

The structure of the building does not fill me with confidence but I may be overly pessimistic. However, some reassurance that the lack of apparent structure on the ground floors does not have an untoward effect on the ability of the building to stay upright would be very welcome.

The materials choice needs to be revised to better follow the design language of the building. This will hold true for any redesign following a more suitable precedent. At

present this will sit very awkwardly amongst the rather more domestic and comfortable buildings either side of the site.

I would not support the building in its current form for the reasons above. However, there is clearly a will to produce a good, attractive design that I hope will be applied to any more suitable redesign.

Devon County Archaeologist

I refer to the above application. The proposed development lies in an area of archaeological potential on part of the Esplanade shown on the mid-19th century Tithe Map as being occupied by a coal yard and adjacent to an area identified in the county Historic Environment Record as containing the site of a possible WWI military coastal defences. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with the 19th century and later military activity in this area. 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 199 of the National Planning Policy Framework (2019) 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 199 of the National Planning Policy Framework (2019), 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/>.

Devon County Highway Authority

Observations:

The site will utilise the existing vehicular access. Two bollards on either side of the vehicular access will warn pedestrians on the Harbour Road of the chance of exiting vehicles of which due to the nature of Harbour Road will be slow moving.

The proposed layout allows for one parking space per dwelling which together with the secure cycle storage, bus services, public car parks, services and facilities of Seaton, I believe will be sufficient to avoid on-carriageway parking and help promote sustainable travel and reduce a high increase in vehicle trip generation.

A 6m gap between the parking rows allows for vehicles to turn off-carriageway and re-enter the carriageway in a forward facing motion.

Overall the County Highway Authority, has no objection to this planning application.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

Police Architectural Liaison Officer - Kris Calderhead

Thank you on behalf of Devon and Cornwall Police for the opportunity to comment on this application.

My only concern with the design of the scheme is in relation to the 'open' nature of the under-croft parking area. The space is somewhat concealed and lacks surveillance opportunities, therefore unrestricted access can contribute to crime, misuse and anti-social behaviour (ASB) such as rough sleeping, drugs use etc. particularly in a town centre location.

To ensure that such a risk is minimised, I respectfully ask that the following planning condition is considered should the application progress:

Condition: An access control system should be applied to vehicular and pedestrian entrances to the under-croft car park to prevent unauthorised access and casual intrusion.

Reason: To reduce the opportunity for crime and anti-social behaviour.

Further recommendations in relation to the under-croft parking area to ensure that criminal opportunity is minimised and the safety of legitimate users maximised include:

- Any potential gates (inward opening automatic) or roller grilles should be located at the building line to avoid the creation of a recess. They should be capable of being operated remotely by the driver whilst sitting in the vehicle.
- Lighting should be at the levels recommended by BS 5489:2013.
- Walls and ceilings should have light colour finishes to maximise the effectiveness of the lighting as this will reduce the luminaires required to achieve an acceptable light level. Reflective paint can reduce the number of luminaires needed to achieve the desired lighting level and reduce long term running costs.
- Any internal door that gives access to the residential floors should have an access control system.
- It would also be preferable if access to the lift and external stairs leading to residential flats and communal areas, was restricted to legitimate users, through the use of access control and a visitor entry system. Any potential system should not have a tradesperson or timed-release mechanism as they have been proven to contribute to crime, ASB and unlawful access to communal developments.
- External letterboxes that meet the requirements of the Door and Hardware Federation standard Technical Standard 009 (TS009) could be considered for mail delivery.
- Emergency egress from the flats and car park must also be facilitated.

Further Recommendations

- The bin store and bike parks must be robust and secure in order to protect against theft, damage and arson. They are located in a vulnerable area with little surveillance opportunities therefore measures should be taken to adequately secure them.
- All external doors and accessible windows are advised to be tested and certificated to an appropriate nationally recognised security standard.
- Consideration should be given to installing a monitored intruder alarm covering the restaurant area. For police response, the system must comply with the requirements

of the Security Systems policy, which can be found at www.securedbydesign.com under the 'Group Initiatives' tab.

- The development would benefit from CCTV, particularly the north elevation and the under-croft parking area. However, I appreciate that any system is unlikely to be monitored and would therefore only be effective as a possible deterrent and aiding in the detection of an offence. I am happy to discuss further if needed.
- An effective light scheme should be in place to reduce the fear of crime and increase surveillance opportunities for legitimate users.

Other Representations

A total of 78 representations have been received to the application of which 51 are considered to be in support of the scheme and 22 to raise specific objections to it. The reasons for support and objection can be summarised as follows

Reasons for Support

- Current building is 'an embarrassment to the town'
- Replacement of building with a 'quality pub/restaurant in a prominent location
- The seafront requires investment and improvement which this well designed building will bring.
- The proposal will provide job opportunities and income for the town.
- The design will provide a precedent to follow for further redevelopment
- Destination restaurant of benefit to locals and visitors
- The residential development provides further high quality options for seafront living
- The proposal is the most realistic way of retaining and thriving and viable Real Ale outlet in the town (CAMRA)
- The proposal will add vibrancy and activity to the sea front
- Fantastic modern design to help smarten up sea front
- Proposal will support the night time economy

Objection reasons

- The proposed development is too tall and should be reduced by a storey
- The materials/colour are inappropriate
- Loss of public house
- Seaton does not need another apartment block
- The design lacks architectural merit is too tall and is out of keeping with surrounding buildings
- The existing building should be preserved.
- Impact of any redevelopment works on the use/enjoyment of the seafront and other local businesses.
- Redevelopment should be timed to avoid disruption to the main tourist season
- Extension beyond existing building line and provision of projecting balconies is inappropriate

- Loss of light to adjoining residential flats/businesses
- The proposal will result in an extremely dominant structure on the sea front.
- Loss of privacy resulting from proposed balconies
- Overbearing impact of development on adjoining developments
- Consideration should be given to providing residents parking bays on the sea front to compensate for the disruption caused.
- Design out of keeping with surrounding vernacular style and scale will dominate surrounding properties
- A reduced height building with fewer apartments would be more appropriate
- Will result in more second homes unaffordable to locals.
- Safety concerns related to increase use of vehicular access
- Proposal restricts rights of access to surrounding properties
- Lack of bin storage for residents

PLANNING HISTORY

There are a number of historical planning applications relating to the building concerning matters such as fenestration changes, advertisement signage, external seating etc. none are considered to be particularly relevant to the current proposal.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 25 (Development at Seaton)

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)

Strategy 38 (Sustainable Design and Construction)

Strategy 48 (Local Distinctiveness in the Built Environment)

D1 (Design and Local Distinctiveness)

EN5 (Wildlife Habitats and Features)

EN10 (Conservation Areas)

EN14 (Control of Pollution)

EN16 (Contaminated Land)

EN21 (River and Coastal Flooding)

E2 (Employment Generating Development in Built-Up Areas)

E9 (Town Centre Vitality and Shopping Areas)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

National Planning Practice Guidance

Procedural Note

The submitted location plan does not include the ground floor external terrace area or projecting gabled elements above. As such the proposal as submitted appears to include development outside of the application site and where it has not been demonstrated that the applicant has control over the land required to build this part of the development.

In the event members were minded to approve the scheme, as a minimum, the applicant would need to amend the red line plan and where necessary serve notice on any other party with an interest in the land, giving them opportunity to comment.

Site Location and Description

The Hook and Parrot public house occupies a traditional pitched roof building of two storey form. There is additional accommodation within the roof and a lower ground floor set below the street level of the Esplanade. The principal (south) elevation and roofline run parallel with the Esplanade but there is a lower projecting gable fronted element on the west side. At ground floor level there is a full width projecting bay and there are 2 no. flat roof dormers to the front roof slope. The elevations are rendered and painted and the roof covered in slate. To the rear the original building has been variously extended with later additions including a full width 2 storey flat roof extension.

There is pedestrian access direct from the Esplanade and to the rear pedestrian and vehicular access via a private road from Harbour Road. This access road leads to a service yard area between the rear of the building and adjoining properties.

The building is currently vacant but the ground and lower ground floor of the building have previously been in A4 use as a public house with 2 no. residential flats to the first floor and a further flat at second floor level.

The site occupies a prominent location on the sea front in area of mixed residential and commercial development and where there is some variation in the form, age and design of buildings. The site lies within the defined town centre area and also falls with the Seaton Conservation Area and land designated as Flood Zone 3.

Proposed Development

The application proposes the demolition of the existing public house and the redevelopment of the site in the form of a 4 storey building (plus lower ground floor level). The proposed building would occupy the same part of the site as the existing public house but the footprint would be extended slightly to the east and north sides. Vehicular access would continue from Harbour Road to the north and would lead to a basement parking area providing 9 no. parking spaces (1 no. for each of the residential units).

At (upper) ground floor level a restaurant use is proposed with an elevated dining terrace on the front elevation set above the level of the adjoining pavement.

The 3 floors above the ground floor would each house 3 no. 2 bed apartments, providing 9 no. apartments in total. The upper floors would be accessed via an external staircase and lift on the rear elevation of the building.

The building would have a recti-linear plan form with the building mass contained within a single block punctuated by the projecting gabled elements on the front elevation.

In terms of materials, the principle material is black brick which would be used on the rear and side elevations and for the projecting gable elements on the principal elevation, the recessed areas between the gables and the rear lift shaft are proposed as cream brick. The areas of pitched roof would be covered in slate. Fenestration is proposed as aluminium units with the principal elevation of the ground floor of the unit fully glazed.

ANALYSIS

The main issues for consideration are the principle of development, visual impact/impact on the conservation area, flood risk, impact upon amenity and highway safety.

Principle and policy compliance

The site lies entirely within the built-up area boundary of Seaton where under Strategy 6 of the Local Plan the principle of development is accepted subject to; compatibility with the character of the site; not adversely affecting flood risk or coastal erosion; it would not damage (and where possible promote) wildlife, landscape, townscape and historic interests; would not result in loss of land of local amenity or recreational importance; would not impair highway safety or traffic flows and would not prejudice the development of an adjacent site.

Strategy 25 of the Local Plan deals specifically with development proposals for Seaton. It seeks to support Seaton's 'green' tourism role and specifically mentions the esplanade in relation to the strategy for the town centre which seeks, "The enhancement of the existing fabric and character of the town, including design improvements and expansion of commercial opportunities in waterfront areas (sea wall and esplanade and harbour and estuary) will underpin Seaton's developing role

as year-round destination." In relation to new homes there is also specific reference to allocating land for new housing within and adjoining the town.

The proposal lies within the defined town centre area where policy E9 of the Local Plan seeks to ensure that the vitality and viability of the town centre is maintained. It permits both retail and non-retail uses which would add variety and increase activity subject to a number of criteria relating to impact on the character, visual amenity and viability and viability of the town centre. In this instance the proposal would constitute a change of use from a *sui generis* use as a public house (formerly A4) to an E class commercial/business use (formerly A3). However, in terms of impacts on the vitality and viability of the area, on residential amenity and on issues such as traffic generation the impacts are considered to be similar. At present the site is vacant and there is no business trading from the premises. The proposal would introduce a new employment generating use to the site which would have the potential to provide similar (and potentially greater) employment and wider economic benefits to those provided by the former public house use. It would also reintroduce an active use to the ground floor of the building in this prominent sea front location and as such add to the vitality and viability of the town centre.

In addition, Strategy 32 seeks to resist the loss of existing employment, community uses and states permission will not be granted for the change of use of current premises where it would harm employment, business or social/community gathering purposes in the area. Unlike the former public house use there is unlikely to be the same level of community involvement/use of the restaurant as may have been the case with a public house, nonetheless there are other public houses and community gathering venues within the town and the site has not been nominated as an Asset of Community Value. Its loss on community grounds would therefore be hard to substantiate.

In relation to the proposed residential uses on the upper floors of the development this reflects the current use of the first and second floors of the existing building. Policy E13 of the Local Plan also supports in principle the residential use of the upper floors of premises within Town Centre Shopping Areas.

In terms of national planning policy para. 85 of the NPPF states that planning decisions should support the role that town centres play at the heart of local communities and take a positive approach to their growth, management and adaptation, Sub paragraph c) seeks to retain and enhance existing markets and where appropriate introduce new ones and f) recognises the role residential development can play in ensuring the vitality of town centres.

Impact on the character and appearance of the area/Conservation Area

The site lies within the designated town centre conservation area and as such the general duty of care set out at Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area, is engaged. This requirement to preserve or enhance conservation areas and their '...setting or views in or out of...' such areas is also set out within policy EN10 (Conservation Areas) of the East Devon Local Plan 2013-2031.

Para. 193 of the NPPF states that, when considering the impact of development, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). It goes on to confirm that this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Para. 194 goes on to state that, any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Paras. 195 and 196 of the NPPF set out how the degree of harm resulting from a proposed development, be this substantial or less than substantial, should be weighed against the public benefits of the scheme. Policy EN9 of the Local Plan reflects the requirements of the NPPF in this respect. Where substantial harm is considered to occur para. 195 advises that consent should be refused unless such harm is necessary to achieve substantial public benefits that would outweigh that harm, or all of the following criteria would be met:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use

Where the proposal is considered to result in less than substantial harm para. 196 states that the harm should be weighed against the public benefits of the proposal.

Advise in the Planning Practice Guidance (Paragraph: 019 Reference ID: 18a-019-20190723) in relation to the assessment of degree of harm in conservation areas states:

"An unlisted building that makes a positive contribution to a conservation area is individually of lesser importance than a listed building. If the building is important or integral to the character or appearance of the conservation area then its proposed demolition is more likely to amount to substantial harm to the conservation area, engaging the tests in paragraph 195 of the National Planning Policy Framework. Loss of a building within a conservation area may alternatively amount to less than substantial harm under paragraph 196. However, the justification for a building's proposed demolition will still need to be proportionate to its relative significance and its contribution to the significance of the conservation area as a whole."

The application is accompanied by a Heritage Statement that describes the site and its history, considers the significance of the site and assesses the impact of the development on the designated heritage asset. It describes how Seaton has grown over time from a small fishing village, through its mid 19th Century expansion as a seaside resort, following the development of the railways. The Hook and Parrot forms part of the Victorian development of the town and was one of the first buildings to be

built along the Esplanade, appearing on the 1889 Ordnance Survey map. It is suggested the building was originally a coffee tavern later changing to public house. In terms of assessment of impact the statement considers the contribution the existing building makes to the conservation area to be minimal, reference being made to it having been 'heavily altered'. In terms of the proposed replacement building the increased height and scale of that proposed is acknowledged but it is suggested the design approach/quality of design elements would mitigate the impact to a degree. Overall it concludes that the proposal would result in 'less than substantial harm' and that this harm should therefore be weighed against the public benefits of the scheme (See below.)

To determine the degree of harm resulting from the development it is necessary to consider the impact both from the loss of the existing building and from its replacement. The existing building is unlisted and is not identified as a key building in the Seaton Conservation Area Appraisal, however, it is within a block that is the only part of the seafront within the Seaton Conservation Area, which reflects the age of the buildings, their history as part of the earliest development on the seafront, and the fact that their massing has remained largely unchanged since the early 20th century. Whilst it is recognised that the building has had a number of unsympathetic additions over time, it nevertheless retains many key historic features identifying its Victorian origins including, its form and layout, traditional roof form, fenestration and materials. There is an additional communal value derived from the historic use of the building as a drinking establishment (of different types) for well over a century to the present. It would be possible to better reveal the building's significance through the removal of the harmful later additions and some degree of reinstatement, particularly on the front elevation.

It is acknowledged that the building's appearance and condition requires attention, but there is no condition survey to allow a full understanding of the building's current state or the extent of work required to bring it back into its lawful or another similar commercial use. It has not therefore been identified that the proposed development in terms of demolition of the existing building is necessary or that an alternative proposal including potentially conversion and extension of the existing building could not achieve similar benefits.

In relation to the proposed replacement building, this would result in a considerably taller building of greater massing in this highly prominent seafront location. Views of the building would be afforded from Castle Hill to the west of the site and along the Esplanade to the east, as well as from land to the north (including the public car park north of Harbour road. In such views the building would be seen projecting above the roofline of surrounding buildings and others in the conservation area. Reference has been made to Fosse Way Court, and Seaton Beach developments further to the east of the site. Both of these lie outside the conservation area boundary. In relation to Fosse Way Court this is generally considered to be a poor example of later 20th century development and not an appropriate template for subsequent development. Seaton Beach much further to the east is considered in a different context to the application site and is not directly comparable.

The site's immediate context is the surrounding development to the north, east and west and includes the buildings to the west that front onto Marine Place and which are

identified in the Conservation Area Appraisal as a key building group which makes a significant contribution to the townscape. These surrounding buildings and others in the conservation area, including the existing building on site are characterised by, amongst other things, the use of painted stone or render to the elevations under slate roofs, although there are some examples of brickwork this is red/orange in colour. In contrast to this the proposed development proposes a black brickwork finish to the majority of the building with some areas of cream brickwork, neither of these materials appears to have any precedence in the conservation area.

In terms of the form and massing, the replacement building at four stories (above basement level) is a storey higher at least than all of the adjoining buildings and others in the conservation area. There are examples of taller buildings elsewhere along the seafront but these lie outside the conservation area and are viewed in a different context. In several cases those buildings themselves appear too tall in relation to adjoining properties and are not seen as setting any appropriate precedent for the development of the application site to follow. Whilst it is clear that there is ambition to provide a statement building that looks to lift the quality of design in the area and as a standalone the design has some merit, it is considered to have little contextual relevance. In addition, to the use of materials and overall height, the depth and plan form of the building results in a bulky building which the trio of gabled projections only disguise to a limited extent. In views from the east and west the depth of the building will be clearly visible where it will appear out of scale with adjoining development and where the building would dominate those to either side.

It appears that the design seeks to reference bonded warehousing but there is no historical reference for this in this location and similarly no reference to suggest the choice of elevation materials and colour has any contextual relevance. The use of brick to the enclosed balconies is also considered to be a poor choice as they would be heavy both visually and literally and as such would appear to work against the 'lighter' more open character evident on surrounding buildings. These elements which form part of an overhanging projection on the front elevation are also at odds with surrounding properties where the buildings display a common building line. The projection would assist in making what is likely to already be a very prominent building even more so. On the rear elevation the lift shaft in contrasting brickwork and external access stairs would present a more functional side of the building which would be visible from the north rising above the surrounding development. The D&A Statement at para. 10.4.7 refers to the rear of the building being 'more industrial', it is not clear why this is considered to be appropriate.

Taken as a whole the loss of the existing building and its proposed replacement is considered to represent substantial harm to the significance of the designated heritage asset (Seaton Conservation Area). This harm is as a result of the loss of the existing building and lack of justification for this and the impact of the proposed replacement where the design is considered to be entirely out of context, in terms of its height, massing, detailed design elements and use of materials. As such, the requirements of para. 195 of the NPPF and criteria a) to d) of policy EN9 of the Local Plan are engaged. The application is not supported by any evidence to demonstrate that alternative uses of the site would not be possible, indeed a public house has been run from the site until relatively recently and other commercial uses would also be suitable. Furthermore, no evidence of marketing of the site for a continued commercial or other

viable use has been provided and there is no evidence that such alternative uses would be unviable. Similarly, no evidence of other means of securing funding to enable retention of the building have been shown. The impact of the proposed development as a whole can therefore only be assessed against the public benefits arising from the scheme which themselves need to be shown to be substantial. These benefits are set out in a separate section below followed by an assessment of these against the harm identified.

Setting aside the need to undertake the balancing exercise in relation to harm and benefits, in terms of impacts on the conservation area the proposal is considered contrary to policy EN10 of Local Plan in that it would affect the setting of the conservation area and views in and out of the area and would fail to preserve or enhance the appearance and character of the area. In addition, the proposal would fail to, "*Respect the key characteristics and special qualities of the area*" or "*Ensure that the scale, massing... height...and materials of buildings relate well to their context*" and it is therefore contrary to the requirements of policy D1 (Design and Local Distinctiveness) of the Local Plan.

In addition para. 127 c) of the NPPF whilst not preventing or discouraging appropriate innovation or change requires planning decisions to be, '*...sympathetic to local character and history*', it is not considered the proposal meets this requirement.

Flood Risk/Drainage

The application site lies on Seaton seafront located to the north side of the Esplanade on the opposite side of the Esplanade from the public walkway and beyond this the sea wall and beach. The site and indeed the entire seafront and much of the land to the north (with the exception of the regeneration site) is classified as Flood Zone 3 - High Risk. The main flood risk to the site arises from the potential for overtopping the sea wall in extreme weather events.

The application is accompanied by a Flood Risk Assessment (FRA) which examines the potential flood risks in more detail and which considers that the development can be made safe from a flood risk point of view. The FRA takes in to account existing flood defence measures including the sea wall and concludes that the development, including its access from Harbour Road would be safe from flooding events during the lifetime of the development. The FRA suggests that taking into account the topographical data for the site that it would not be at risk of flooding during the design flood event (even taking into account climate change) and that the site should be considered to be in flood zone 1. In terms of mitigation it is proposed to set the internal FFL of the building significantly above all modelled flood levels. It is also proposed that a Flood Evacuation Plan (FEP) would be produced to ensure users of the building were made aware of forecast flood events and to provide appropriate egress/refuge provision in any unpredicted flood events.

Residential development is classified as more vulnerable development, in accordance with flood risk vulnerability classification set out in the National Planning Practice Guidance (NPPG) which accompanies the National Planning Policy Framework (NPPF). As such, any such proposals within High Risk Flood Zones are required to pass two tests prior to them being considered acceptable in flood risk terms. These

tests are known as the 'Sequential' and 'Exceptions' Tests. The submitted FRA however considers that topographical data actually demonstrates the site to be within Flood Zone 1 and therefore the sequential and exceptions tests need not to be applied

In response, the Environment Agency (EA) has advised that they have no objections to the proposal and that they agree with the conclusions and recommendations of the submitted FRA. On this basis it is taken that the EA share the view that the site should be considered to fall within FZ1 and that the sequential and exceptions tests need not be applied. They have however, suggested that the proposals look to specify more definite flood resistance and resilience measures to account for potential flood risks, in extreme events, to the basement/lower ground floor.

Aside from the Flood Risk relating to the proposals, as considered above, it is also necessary to consider the proposal for the management of surface water run-off related to for the scheme. Policy EN22 of the Local Plan requires that new development fully considers run-off implications of new development; includes appropriate remedial and maintenance measures, and; where there are potentially significant surface water runoff implications includes a Drainage Impact Assessment. In relation to major developments there is an expectation that surface water would be managed by sustainable drainage systems.

A drainage strategy is included as part of the submitted FRA and sets out how surface water drainage would be managed, it includes provision for increased rainfall resulting from climate change. In order to reduce the rate of surface water run-off it is proposed to install an attenuation tank below the building and for all hardsurfacing areas outside the footprint of the building to be permeable. Flows to the existing public combined sewer will thus be attenuated to ensure that flows to the public sewer are within acceptable levels, as set out by South West Water. Devon County Council responding in their Flood and Coastal Risk Management capacity has advised that they have no objections to the proposal in principle but that additional information should be provided in the form of a plan indicating how exceedance flows will be managed at the site and setting out how and by whom the surface water management infrastructure would be managed. If the development were otherwise found to be acceptable these details could be required by condition.

Economic Impact/Public Benefits

The proposal would result in the loss of the existing public house use from the site, albeit this is not currently operating as such. The principle of such a change is discussed above but in terms of economic benefits and setting aside the ability to refurbish and re-open the building as a public house and as such whether the proposed development is necessary to achieve, it is recognised that there are clear potential benefits to bringing the site back into an active commercial use.

The application is supported by a Public Benefits Assessment Statement which seeks to identify the key economic, social and environmental benefits that could arise from the development.

In terms of economic benefits these can be direct, indirect or induced. Direct benefits would be those arising from jobs created in the construction and operational phases

of the development as well as wage income and profit. Indirect benefits would arise from the benefits of the development to businesses in the supply chain (again both at the construction and operational phase). Finally, induced impact relates to the benefits that may derive from increased spending as a result of increased income and spending within the wider economy. The applicant's figures suggest that for each £1 invested this creates an increase in Gross Domestic Product of £3.08, extrapolating out those figures they consider that the construction investment required of approx. £1.5 million would result in an estimated increased of £4.62 million in GDP.

Relating directly to increased expenditure from new residents (based on a minimum of 2 no. additional residents per unit) it is suggested that the overall annual expenditure on convenience, comparison and leisure spend would be between £117,144 and £175,716 p.a. However, it should be recognised that not all of this spend would be focussed on Seaton (or even East Devon). It is further suggested that as a destination restaurant the proposed business would also attract visitors to Seaton and increase visitor spend in the town.

In terms of job creation it is suggested that the proposal would support approximately 50 construction jobs for the duration of the build and following this the restaurant would support an estimated 30 full/part time posts.

Further benefits would potentially accrue through New Homes Bonus payment and increased council tax/business rates. Finally, in terms of economic benefits it is suggested that investment in the construction industry is one of the best ways to help aid the economic recovery from the effects of the COVID-19 pandemic.

In terms of social benefits it is acknowledged that the proposal would provide a small number of additional homes and would provide a continued social gathering space within the town centre, albeit at the loss of an existing one.

Notwithstanding the concerns expressed above in relation to the impact of the development on the conservation area and the appropriateness of the design it is acknowledged that the proposal would reintroduce an active use to the seafront.

Overall in terms of potential benefits it is acknowledged that the proposal has the potential to provide fairly significant economic benefits to the town both during the construction and operational phases of development and that these weigh in favour of the scheme. The proposal would also provide some limited but positive social benefits. These benefits though need to be weighed against any environmental impacts, this balancing exercise is undertaken in the conclusions section below.

Highways and Access Issues

The proposal seeks to utilise the existing vehicular access that serves the site, this access leads from Harbour Road to the north of the site and runs between neighbouring developments to the main part of the site. At present there is limited parking provision on site, the area to the rear of the public house acting as a service yard.

The scheme looks to provide a parking area at basement/lower ground floor level providing 9 no. car parking spaces and a similar provision of cycle parking spaces (1 per residential unit), in this town centre location such provision is considered to be appropriate.

Seaton Town Council has sought some reassurance that the proposal would not result in vehicles having to reverse onto the public highway. Devon County Council as the Local Highways Authority has confirmed that they are satisfied that on-site turning can be achieved and that they are otherwise satisfied with the proposal from a highways perspective, as such the proposal is considered to be acceptable in this regard and to meet the requirements of policy TC7 of the Local Plan.

Amenity Impact

The application site is surrounded on three sides by existing development and which include residential uses and therefore development on the site, particularly on the scale proposed, has the potential to impact adversely on adjoining occupiers.

The existing building on site is ostensibly of two storey form, albeit with additional accommodation within the roof and at basement level. The building sits within a block of buildings of similar height and where there are similarly commercial uses at ground floor level with residential above. Whilst there is an existing tight knit grain to the development in the area there is a degree of 'breathing space' around the building particularly to the east and north sides where the yard area provides separation from adjoining properties to the north and where the upper floors of existing building are set back due to the narrower span of the original building. In contrast to this, the proposed building would be significantly taller, wider (extending further to the east) and whilst the depth of the lower floors would be similar to the existing building depth this would be extruded out over the full height of the building. As a result, the building would be of significantly greater massing which together with the use of building materials proposed has the potential to have an oppressive and overbearing impact on the amenity of adjoining occupiers. There is also the potential for increased overlooking and overshadowing/loss of light.

Consideration is given below to potential impacts on neighbouring properties as follows:

West of site

To the immediate west of the site is a building with a café at ground floor level and maisonette above. The proposal would introduce a taller building immediately adjoining this and extending back deeper into the site above ground floor level. The projecting gables to the front of the proposed building would extend forward of the building on the boundary line. The maisonette has a projecting first floor balcony with openings onto this and 2 no. dormers in the roof slope above. Although the orientation of the building is such that any direct loss of light would be minimal the projecting black brick gabled element has the potential to have an oppressive impact on the use of the adjoining balcony. There are also windows to the rear of the property that would be directly blocked by the proposed development. The submitted information indicates that this area has not been surveyed and there is no supporting information to

demonstrate that amenity impacts of the development have been assessed and found to be acceptable.

Further to the west windows in the rear elevation of properties fronting Marine Place view east over the site and rear yard area the increased height and depth of the building over the upper floors has the potential to reduce light to the upper floor windows of some units.

North of site

The buildings here front onto Harbour road and are in commercial use at ground floor level. No. 2 to the immediate west of the site access is 2 storey with the Ocean View further to the west being 3/4 storey. The upper floors are in residential use, with windows/rooflight openings viewing toward the site as well as external terrace areas. At present, the upper floors of the building on the application site are set further away from the flats to the north and contain fewer windows whilst there is currently rear access to the upper ground floor level there is no external access above this level other than emergency escape routes. The proposal would introduce a new taller building to the south of these neighbouring properties and within between 4.5m and 11 metres of facing elevations, although the outlook from these adjoining properties is at present limited it would be further compromised and the introduction of an external access stairs/balconies to serve the proposed residential unit and windows in the rear elevation of the building have the potential to result in loss of amenity to neighbouring occupiers through overlooking/loss of privacy. The increased height and depth of the building together with its position due south of neighbouring residential properties also is likely to reduce levels of natural light to those properties at certain times.

East of Site

Marlwyl to the immediate east of the site is a 3 storey building but as a result of lower floor to ceiling heights has a lower overall height than the existing building on the application site. It is commercial use at ground floor level with 2 no. flats above. At present there is approximately a 4 metres gap between the main part of the existing building and this neighbouring building. The proposal would reduce the separation distance to approximately 2 metres. As with the properties to the immediate west of the site the proposed projecting upper floors of the building and increased height may have some impact but given the separation distance this would be less. Marlwyl has 2 no. windows on the west elevation at both first and second floor level and the outlook from and light to these would be reduced.

Further to the east The Burrow is a short terrace running perpendicular to the site, as with other neighbouring properties the ground floors are in commercial use and the upper floors residential with their principal aspect to the west. The rear of these properties face east viewing toward the site. These properties are set further away from the proposed site and their rear outlook is already compromised to varying degrees by Marlwyl nonetheless it is not considered that the amenity of any occupiers is likely to be significantly compromised by the proposed development.

Overall there are concerns that the proposed development has not properly assessed the potential impact of the development on the amenity of neighbouring occupiers,

indeed there appears to be no mention of such in the accompanying design and access statement. Given that the proposal includes a significant increase in height and massing and introduces an increased number of new openings and external walkways/balconies to the rear elevation it has the potential to result in loss of privacy/amenity and to have an overbearing and oppressive impact as well as resulting in loss of light/overshadowing of neighbouring properties. Further analysis of these impacts including lines of sight to existing windows and a sun path analysis are necessary to fully understand such impacts and in the absence of which the amenity impacts of the proposal weight against the proposal.

Other Issues

The proposed demolition of the existing building has the potential to result in the loss of or destruction of wildlife habitat and in particular bat roosts. The application is accompanied by a Bat and Protected Species report detailing survey work undertaken of the building. The report concludes that the building is not considered to '*...support a bat roost, and that the proposed works are unlikely to result in disturbance to bats or to significantly affect the distribution or abundance of local bat populations.*' Similarly no evidence of the use of the building by nesting birds were identified. In both respects precautionary recommendations are made in the event any bats or nesting birds were to be encountered. Subject to a condition requiring development to proceed in accordance with the recommendations of the report the requirements of policy EN5 of the Local Plan could be considered to be met.

In terms of biodiversity enhancement, encouraged by Stgy 47 of the Local Plan and para. 175 of the NPPF, measures are set out within the report to achieve this, again these measures could be conditioned.

Stgy 38 of the Local Plan seeks to encourage the use of sustainable design and construction in development schemes whether this be through conversion, or new development. Advice in the National Design Guide includes at para. 144 that, 'The re-use and adaptation of existing buildings reduces the consumption of resources and contributes to local character and context.' The proposal seeks the wholesale demolition of the existing building and as such would result in the loss of the embodied energy therein. Consideration as to the refurbishment and re-use of the existing building does not appear to have been given and there is insufficient information provided to understand whether this would be viable and what it might entail. Whilst there is no requirement to provide such information it would assist in understanding what alternatives might have been given consideration and the reasons for their dismissal. Invariably the proposal would create building waste and require higher energy consumption in construction of the new building, although the new building would be more energy efficient once completed. Whilst the D&A Statement makes reference to the use of solar photovoltaic panels there are no details of these and they are not shown on the submitted plans. There is therefore little demonstration of how sustainable design and construction methods have been incorporated into the proposal.

The Historic Environment Service of Devon County Council has identified the site as having archaeological potential. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and

artefactual deposits associated with 19th century and later military activity in this area. In order to mitigate the potential impact of development upon the archaeological resource should a Written Scheme of Investigation (WSI) is recommended, this would set out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. Such a scheme would be required to satisfy the requirements of paragraph 199 of the NPPF and Policy EN6 of the Local Plan. However, in the event that the proposal was otherwise found to be acceptable this could be secured by means of a pre-commencement condition.

CONCLUSION

The application seeks the comprehensive redevelopment of the site through the demolition of the existing building and construction of a new 4 storey building (plus basement level). The site lies within the designated conservation area and occupies a prominent position on the sea front. The conservation officer and urban design officer have raised concerns in relation to both the loss of the existing building, which represents one of the earliest developments on the Esplanade, as well as the impact of the new building on the conservation area. The proposal as a whole is considered to result in substantial harm to the conservation area and as such it needs to be demonstrated that such harm is necessary to realise substantial public benefits that would outweigh such harm.

In considering the benefits arising from the scheme it is acknowledged that the proposal would bring forward economic benefits both in terms of direct job creation but also indirect benefits to the wider economy – although a number of these could be achieved through refurbishment and alteration of the existing building. The provision of some additional residential units would also provide some modest social benefits. These benefits whilst not insignificant are not considered to outweigh the environmental harm that would arise through allowing a development that would result in the loss of the existing building; is considered to be out of scale with immediately surrounding development in terms of increased height and massing; fails to respond appropriately to its context in terms of both form and external appearance (in particular use of materials), and; which would also give rise to a loss of amenity to adjoining occupiers. In weighing the harm and benefits consideration has been given to whether amendments to the scheme could be brought forward that might allow the balance to weigh in favour of the proposal however such changes, setting aside the harm arising from the loss of the existing building, would need to be so significant as to represent a fundamentally different scheme.

RECOMMENDATION

REFUSE for the following reasons:

1. The proposed loss of the existing building combined with the incongruous scale, height, design features and materials proposed in the replacement building and its prominent position would result in a development which fails to respect the historic character of the designated conservation area. The harm which would arise to the irreplaceable heritage asset has been identified as 'substantial', and it has not been identified that such harm is necessary to achieve substantial

public benefits, or that any public benefits which would arise would outweigh this harm. Therefore the proposal would conflict with the requirements of policies EN8 (Significance of Heritage Assets and their Setting), EN9 (Development Affecting a Designated Heritage Asset) and EN10 (Conservation Areas) of the Adopted East Devon Local Plan, guidance contained within the National Planning Policy Framework and the statutory provision of Section 72 of the Listed Building and Conservation Area Act, 1990.

2. The proposal, by virtue of the increased height and depth of the building and close relationship with neighbouring properties, together with the introduction of new openings and external staircase/walkways on the rear (north) elevation of the development would have an overbearing effect on the occupiers of neighbouring properties; would, in some cases, result in a loss of light, and; would increase the potential for overlooking/loss of privacy to the detriment of the private amenity of those occupiers. As such the proposal conflicts with the requirements of Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan and guidance contained within the National Planning Policy Framework.

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 seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

Plans relating to this application:

087.63	Other Plans	26.03.21
087.62 REV A	Proposed roof plans	26.03.21
087.61 REV A	Other Plans	26.03.21
087.60	Proposed Site Plan	26.03.21
087.58	Sections	26.03.21
087.57	Sections	26.03.21
087.56	Proposed Elevation	26.03.21
087.55	Proposed Elevation	26.03.21
087.51	Proposed Floor Plans	26.03.21

087.50 Proposed Floor Plans 26.03.21

087.01 Location Plan 26.03.21

List of Background Papers

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

Ward Sidmouth Sidford

Reference 21/1132/FUL

Applicant Mr & Mrs Paley

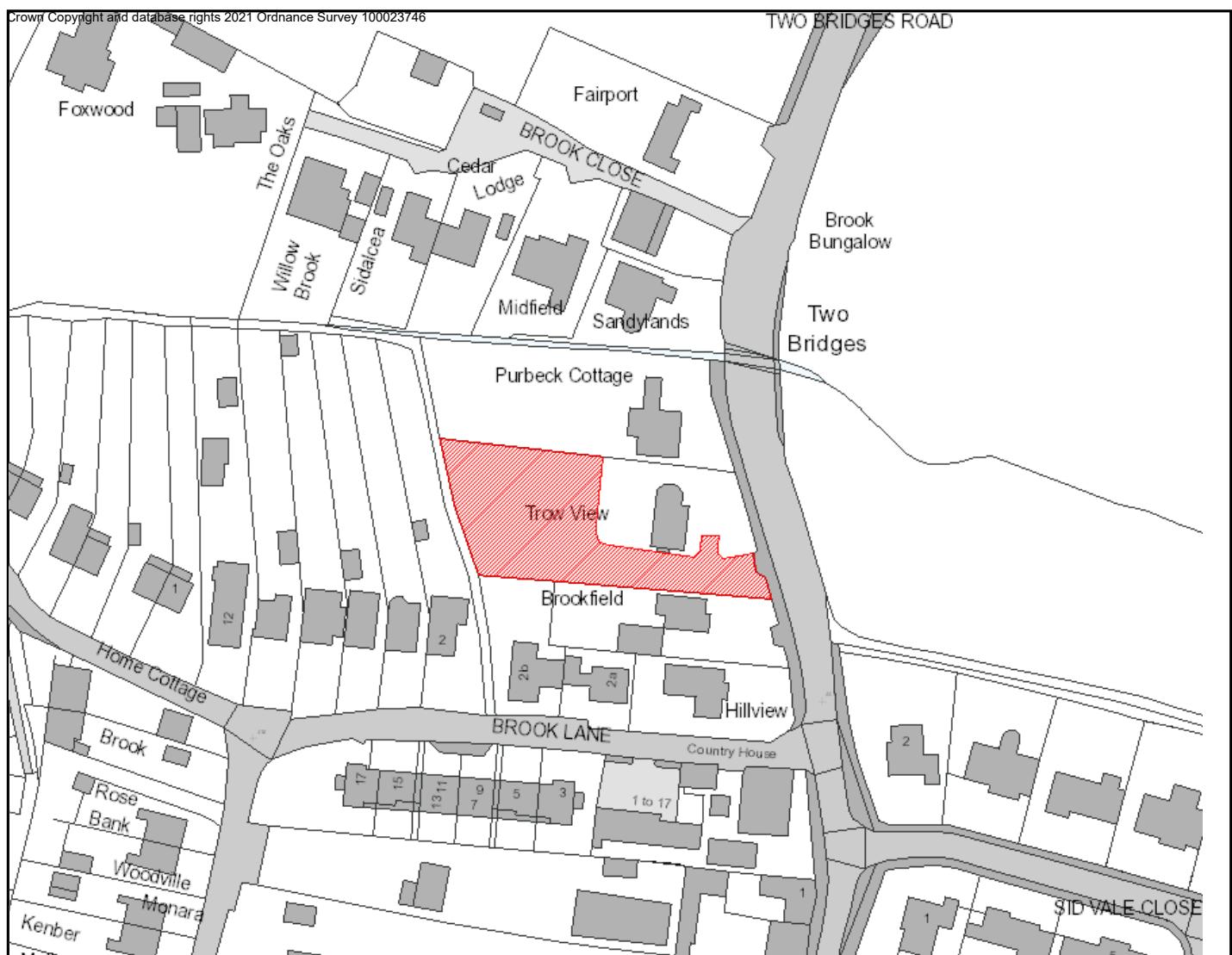
Location Land To The Rear Of Trow View Two Bridges Road Sidford Sidmouth EX10 9PL

Proposal Construction of one detached dwelling and private driveway on land to rear of Trow View.



RECOMMENDATION:

1. That the Habitat Regulations Appropriate Assessment outlined within the Committee Report be adopted; and,
2. That the application be APPROVED subject to conditions.



		Committee Date: 4th August 2021
Sidmouth Sidford (Sidmouth)	21/1132/FUL	Target Date: 23.06.2021
Applicant:	Mr & Mrs Paley	
Location:	Land To The Rear Of Trow View Two Bridges Road	
Proposal:	Construction of one detached dwelling and private driveway on land to rear of Trow View.	

RECOMMENDATION:

1. That the Habitat Regulations Appropriate Assessment outlined within the Committee Report be adopted; and,
2. That the application be APPROVED subject to conditions.

EXECUTIVE SUMMARY

This application is before the Committee because the recommendation is contrary to the views of Ward Members.

The proposal is to construct a large dwelling in the large back garden of Trow View. The host property was formerly divided into two flats but has now reverted to a single dwelling and has planning permission to be extended.

The garden of Trow View is large enough to accommodate the proposed dwelling without appearing cramped or at odds with the prevailing character of the area. Furthermore, the traditional design of the dwelling would be compatible with surrounding dwellings.

Although the dwelling would impact on the outlook, privacy and some overshadowing of gardens to surrounding properties, including the host dwelling, in no instance would these impacts be harmful to living conditions. The dwelling has been carefully designed to create a neighbourly relationship and, subject to the obscure glazing of a secondary bedroom window, would conserve neighbour amenity.

The Environment Agency's surface water flooding map indicates a potential risk of flooding on the site but this is a high level assessment which requires refinement. In collaboration with a consultant, Devon County Council and the Environment Agency, the applicant has demonstrated that the risk can safely be regarded as 'very low', the lowest possible category. This means that the sequential test does not need to be applied and the dwelling can be developed and occupied safely.

Access to the dwelling would be via the existing access which would be slightly widened. There would be sufficient visibility, parking and turning and the volume of traffic using the access can be safely accommodated. There is no objection from the Highway Authority.

In conclusion, the site is appropriate for development in principle and this proposal would be compatible with the character and appearance of the area and preserve the living conditions of the occupants of neighbouring properties. It is therefore recommended for approval.

CONSULTATIONS

Local Consultations

Sidmouth Sidford - Cllr Stuart Hughes

24/05/2021 - As one of the local ward member I make the following observations:-

1. Visibility There is insufficient visibility to egress safely onto the A375 primary route between Sidford and Honiton with in excess of 7,000 daily vehicle movements.
2. Insufficient parking spaces for this development.
3. Over bearing development on neighbouring properties.

The proposed development would be sited within 18 metres of the neighbouring properties first floor which is less than the minimum requirement.

The overbearing nature of the proposal will also reduce daylight to neighbouring properties.

Further comments:

15/06/2021 - As one of the ward members I should like to make the following observations about this amended plan.

I still have concerns about the close proximity to the neighbouring property and the size of the proposed building.

Sidmouth Sidford - Cllr Marianne Rixson

21/05/2021 -

1 Highways

Previously the applicants submitted an application (21/0910/FUL) to convert the existing dwelling into a 5 bed house.

This new application (21/1132/FUL) is for two additional 4 bed dwellings on the same site.

However, please note that when the owners of Purbeck Cottage wanted to build one property in their back garden, a preapp was refused on the grounds of visibility:

'the site access onto the main A375 road between Sidmouth and Honiton. Devon County Council, as the highway authority, have responded that the access has insufficient visibility to the north of the site, and therefore they would not support a new access in this location'.

Please note that Purbeck Cottage is adjacent to Trow View.

Furthermore, the refusal states:

'I would suggest that two parking spaces would be required for the new property. This is due to the limited available on street parking and that Sidford, despite having some services such as a public house and shop, is not considered a highly sustainable location such as a Town Centre which Local Plan Policy TC9 states could be considered an exception to the requirement for two parking spaces.'

2 Flood Risk

Please note that the flood risk assessment accompanying this application states this proposed development is in an area at **low risk of surface water flooding**.

2.1 Flood Risk Summary

The evidence below (from the government flood warning website) contradicts the claim made by the applicants in their flood risk assessment for this property.

It is in fact in an area at **high risk of surface water flooding**

<https://flood-warning-information.service.gov.uk/long-term-flood-risk/risk>

2.2 Flood Alert

In fact, there has been a flood alert for Trow View due to the heavy rainfall experienced during May.

3 Over Development

There was another application (21/0910/FUL), approved in May, to convert the two flats into one property, to which I had no objection.

However, I believe this new application for an additional two x four bedroom properties on the same site will affect the amenity of neighbouring properties.

Furthermore, I would suggest this new application, together with the approved application (21/0910/FUL) will constitute over development of the Trow View site, as there will then be a total of 13 bedrooms, including both the approved and new application. Plus there will be shared access, which could lead to disputes in the future.

I believe this new application should be REFUSED on the grounds of highways visibility, flood risk and over development.

Further comments:

14/06/2021 -

1 Flood Risk

In my objection to the previous application, I commented that the flood risk assessment accompanying the application stated the proposed development is in an area at 'low risk' of surface water flooding.

1.1 Flood Risk Summary

The evidence below (from the government flood warning website) still applies and contradicts the claim made by the applicants in their flood risk assessment for this property.

It is in fact in an area at high risk of surface water flooding <https://flood-warning-information.service.gov.uk/long-term-flood-risk/risk>

1.2 Flood Alert

There was a flood alert for Trow View due to the heavy rainfall experienced during May.

1.3 Floodline

This year alone, I have received several flood alerts as follows:

January	2
February	1
May	3

Surface water flooding should not be dismissed lightly, as we have had the wettest May on record for Devon and Cornwall – ‘Rainfall was 185mm which is 255% of the long term average (LTA) for May. All catchments received ‘exceptionally high’ rainfall. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/992663/Devon_and_Cornwall_Water_Situation_Report_May_2021.pdf

1.4 Devon Flood Risk Management Strategy

‘The effects of climate change, with more intense rainfall events are a growing concern and are considered for all flood risk management activity. This is particularly relevant for the reviewing of development proposals to ensure flood risk is not increased as a result.’

<https://www.devon.gov.uk/floodriskmanagement/document/devon-local-flood-risk-management-strategy-2021-2027>

2 Over Development & Amenity

I believe this revised application for an additional five bedroom property on this site will affect the amenity of neighbouring properties, including reduced daylight, overlooking and proximity.

I would ask you to bear in mind the comments of neighbours, who have serious concerns about this development, including invasion of privacy.

Furthermore, I would suggest this new application, together with the approved application (21/0910/FUL) will constitute over development of the Trow View site, as there will then be a total of 10 bedrooms, including both the existing dwelling and new application. Plus there will be shared access, which could lead to disputes in the future.

I believe this new application should be REFUSED on the grounds of surface water flood risk, over development and impact on the amenity of neighbouring properties.

Parish/Town Council
13/05/2021 - Support

Further comments:

11/06/2021 - SUPPORT: Members would prefer to see the original proposal for two x 3 bedroom houses.

Other Representations

Four objections have been received for the original 2-dwelling scheme and the same objectors commented on the revised 1-dwelling scheme as follows:

2-dwelling scheme:

Excessive traffic generated
The entrance to the driveway floods
Overdevelopment of the site
Dominance/overbearing
Loss of privacy
Loss of light
Overshadowing
Light and noise intrusion and pollution from the driveway

1-dwelling scheme:

Too many cars sharing a drive
Inadequate visibility
Risk of flooding
House is too large for the plot
Dominance
Loss of privacy
Noise

Technical Consultations

Environment Agency

I am keen to finalise the Environment Agency's flood risk related input to the above planning application. I was anticipating a formal consultation to reflect the attached information, but this does not seem to have materialised. My response is made on the understanding that the attached information forms a constituent part of the planning application and that it is appended to the submitted flood risk assessment details.

Further to the analysis presented, I can confirm that the EA would be content for the surface water flood risk to be classified as 'very low risk' for this development site.

I trust that this answers the outstanding questions from Andrew Digby's email of 14/06/21, which was addressed to both DCC and the EA sustainable places team.

DCC Flood Risk Management Team

As this is essentially a challenge to the surface water flood map, the consultant should produce relevant evidence for DCC LLFA to review and if agreed we would need to liaise with the EA for them to add a note to the map as a caveat. This wouldn't change the mapping (the image) unless their model was developed based on the same parameters and system used by the EA. However a note would be placed on the mapping indicating that the LLFA hold information to show that the mapping at this location is inaccurate.

It is worth noting that the surface water flood map should not be used for individual properties.

DCC Highways

Observations:

I have visited the site and have the following comments:

The site is to the rear of an existing dwelling that has an existing vehicular access onto Two Bridges Road - A375, which runs between Sidmouth to the south and Honiton and the A30 Trunk Road to the north.

Trow View is situated next to the 20mph zone to the south and the 30mph limit to the north. Drawing number BD2027:03 Rev. B in the application documents shows that the visibility north, towards Sidbury, is 2.4m x 60m and to the south, towards Sidmouth it is 2.4m x 28m. I agree with these measurements.

Manual for Streets - Table 7.1 (Derived Safe Stopping Distances) advises for a 20mph road the distance should be at least 25 metres and for a 30mph road it should be at least 43 metres. Both visibility's exceed these minimum requirements therefore the CHA is content that the existing visibility splays are safe and suitable.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

PLANNING HISTORY

Reference	Description	Decision	Date
19/2153/OUT	Demolition of existing sheds and construction of 2no dwellings to the rear of the property (outline application with all matters reserved).	Withdrawn	10.01.2020

21/0910/FUL	Conversion of existing two apartments back to one house with the conversion of attic, addition of dormer windows, addition of two storey side extension and rear single storey extension.	Approval – standard time limit	21.05.2021
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POLICIES

Sid Valley Neighbourhood Plan (Made)

Policy 1 Sid Valley Development Principles
 Policy 6 Infill Development, Extensions and Trees
 Policy 7 Local Distinctiveness
 Policy 9 Residential Development

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)
 Strategy 46 (Landscape Conservation and Enhancement and AONBs)
 Strategy 47 (Nature Conservation and Geology)
 D1 (Design and Local Distinctiveness)
 D2 (Landscape Requirements)
 D3 (Trees and Development Sites)
 EN22 (Surface Run-Off Implications of New Development)
 TC2 (Accessibility of New Development)
 TC7 (Adequacy of Road Network and Site Access)
 TC9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)
 National Planning Practice Guidance

Site Location and Description

The site is located on the A375 at Sidford and is within the Built-up Area Boundary. There are dwellings at the rear and on each side of the site and the field opposite the site has planning permission for employment development. Although the East Devon AONB and Sidford Conservation Area extend close to the site, it lies outside of both designations and they are not a constraint to development.

The site lies outside the fluvial flood zones, which extend into the property to the north, but Environment Agency data indicates that the site is at risk of surface water flooding.

Proposal

Planning permission is sought for a detached dwelling in the garden at the rear of Trow View, a property which was formerly subdivided into two flats but is now a single dwelling. The existing and proposed properties would share the same access.

When it was originally submitted the proposal was for two more modest dwellings but the applicant has revised the scheme and now proposes only one larger dwelling.

ANALYSIS

The main issues for consideration are: whether the development is compatible with the character and appearance of the area; whether the proposal would harm the living conditions of the occupiers of neighbouring properties, including the occupants of Trow View; and the risk of flooding from surface water.

The principle of development being acceptable as the site is located within the Built-Up Area Boundary for Sidmouth.

Character and appearance

The surrounding area comprises a mix of detached and semi-detached dwellings, some terraced housing and flats. Most have a frontage onto a road but the layout of flats and houses has some irregularity in the vicinity of the site.

Trow View and its neighbour, Purbeck Cottage, have unusually large rear gardens and the application site has sufficient space to accommodate a dwelling without appearing cramped when compared with the density of surrounding development.

Although backland development is not prevalent in the area, this site and its neighbour provide the only opportunities for such development and therefore it would not detract from the prevailing character to a harmful degree.

Having regard to the space available, the density of surrounding development and the future development of the field opposite Trow View, infill development on this site would be compatible with the character of the area. It is also noted that the Town Council is not opposed to the principle of development on this site, although they have a preference for the original scheme for two houses.

The design of the dwelling would be traditional and entirely compatible with the mix of styles in the local area.

Living conditions

The proposed substantial 5-bed dwelling would have accommodation on two levels and, by virtue of being back garden development, would introduce a physical presence and changes in privacy which the occupants of neighbouring dwellings are not accustomed to. This does not make the proposal unacceptable in principle but careful consideration of the amenity impacts is required.

The western boundary of the proposed plot would border a shared path which itself borders the edge of the long garden at the rear of 2 Brook Lane. Relative to the rear of no. 2, the proposed dwelling would be about 14m to the north, and the nearest first floor clear-glazed window would be about 18.5m to the north. This would ensure that a substantial area of garden immediately at the rear of no.2 would remain private, even if more distant parts of the garden would be subject to new overlooking. Although there

would be some shading in the early morning in the winter when the sun is low, the main amenity space would be unaffected. This relationship is therefore acceptable.

Moving in an anti-clockwise direction around the plot, the next property is 2B Brook Lane. The rear garden of this property adjoins the southern boundary of the plot. There are trees within the garden of 2B which provide some screening but at least one tree within the proposed plot has been felled. The distance between the rear windows in 2B and the side elevation of the proposed house would be just under 20m. The distance from the garden boundary to the new dwelling would be about 8.5m at the closest point. These distances would be sufficient to prevent an overbearing impact on the neighbour's garden and harm to the outlook from their windows. In the south elevation at first floor level there would be a window serving a bathroom and a secondary window serving a bedroom. This bedroom window would introduce a more direct and much closer level of overlooking than any other existing window that has a view towards the back garden of 2B. At only 8.5m from the back garden and facing directly towards the amenity area, this window would appear intrusive. However, the intrusion could be remedied by obscure glazing the window and this would not compromise the bedroom because it would retain a main outlook to the east. The obscure glazing can be secured by condition. A further south facing window in the northern 'wing' of the proposed dwelling (to Bedroom 3) would be at a greater distance and only have a glimpsed view and therefore would not appear intrusive.

The neighbour to 2B Brook Lane is 2A but this property is separated from the site by the garden of Brookfield and would not be detrimentally affected by the proposal with the obscure glazing mentioned above.

Brookfield is the southern neighbour to Trow View on Two Bridges Road. It has a shorter and narrower plot than Trow View but has a generous garden. Owing to the separation distance the dwelling would not appear overbearing and the nearest first floor bedroom window would not appear intrusive, particularly having regard to the existing level of overlooking from surrounding properties.

Trow View itself would have a substantially reduced garden and this would be further reduced if the extensions that have recently been granted planning permission are constructed (see 21/0910/FUL). These are not shown on the drawings submitted for the new dwelling but even if the extensions are built, Trow View would still retain a good sized garden. The front of the proposed dwelling would face the rear elevation and the rear garden of Trow View. The closest windows would be at least 21m apart which would be sufficient to ensure privacy within the dwellings. Overlooking of the garden of Trow View from the first floor windows in the proposed dwelling would be at quite close range, just over 9m at the closest point. However, this would be mitigated by the approved extension and overall this relationship is considered acceptable. The applicant also has the ability to introduce new landscaping within his garden to protect his privacy. There would be some impact from shading in the evenings but the separation distance would prevent this being excessive or harmful.

The next property to consider is the neighbour on the north side of Trow View, which is Purbeck Cottage. Although the proposed dwelling would be closer to the boundary of this property than to any other neighbour, Purbeck Cottage has a large garden and there would be distance of about 15 metres between the two storey part of the

proposed dwelling and Purbeck Cottage. The combination of these factors means that the proposed dwelling would not appear unduly dominant or overbearing. The only first floor window facing the garden of Purbeck Cottage would be a bathroom window and this would be obscure glazed. Whilst the dwelling would cause shading of the neighbour's garden during parts of the day (particularly in the winter), the effect on the rear facing rooms in Purbeck Cottage would be acceptable owing to the distance and layout. Given these factors the relationship is acceptable.

An objection has been received from the occupant of Sandylands, which lies to the north of the garden of Purbeck Cottage. This property would not be affected by dominance or overlooking given the distances and relationship.

Having reviewed the relationship with all surrounding properties it is concluded that there would be no adverse amenity impacts, provided the bedroom windows in the south elevation and bathroom windows are obscure glazed.

Flood Risk

The site is in flood zone 1 but Environment Agency data shows that it is at risk from surface water flooding. The guidance accompanying the surface water flooding map states:

"The map does not contain sufficient information for it to be used to determine flood risk to individual properties, but it does give you an indication of whether your area may be affected by surface water flooding and to what extent."

Therefore it provides a starting point for an assessment rather than conclusive evidence that there is a risk. On the basis that the risk of flooding from all sources must be considered a flood risk assessment has been undertaken.

After detailed consideration and refinement, making use of all of the available information, including the detailed assessment provided for the employment site at Sidford, the applicant has been able to demonstrate that the risk of flooding to the site is 'very low', which is equivalent to flood zone 1. This has been confirmed by the Environment Agency and it means that there is no requirement to apply the sequential test. Although the risk is considered to be very low, the FRA recommends a precautionary approach to ensure that any surface water that does reach the site is appropriately managed and does not affect the proposed house or any neighbours. Subject to implementing the measures described in the flood risk assessment, the proposal is acceptable from a flooding perspective.

Other matters

Access is proposed via the existing driveway which would be extended along the southern boundary to the new dwelling. Although the driveway would be adjacent to the rear garden of Brookfield, the level of use associated with a single dwelling would not give rise to an adverse amenity impact. The first part of the driveway would be widened to 4.2 metres, which would comply with the minimum requirement of 4.1 metres. Adequate turning and parking space would be provided for both dwellings. Visibility at the access would be 60m to the north and 28m to the south. The boundary

between the 20mph zone in Sidford and the 30mph zone towards Sidbury is at the southern edge of the driveway and therefore the splays are considered to be adequate. Moreover, the Highway Authority has not raised an objection.

There are some trees around the site and although they are unlikely to be affected by the dwelling in the long term they are valued landscape features and would help to integrate the development within its setting. It is therefore appropriate to secure a buffer zone around the trees during construction to ensure that they are not harmed by machinery or storage of materials.

Habitats Regulation Assessment and Appropriate Assessment

The nature of this application and its location close to the Pebblebed Heaths and their European Habitat designation 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 the 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.

CONCLUSION

Although attempts to gain permission for two dwellings on this site have not been successful, this proposal for one dwelling, albeit a large dwelling, has demonstrated that it would be compatible with the character and appearance of the area and would not harm the living conditions of any neighbour. Furthermore, the applicant has carried out a robust assessment of the risk of flooding and has demonstrated to the satisfaction of the Environment Agency that the risk would be 'very low'. Given that there is no lower category of risk, there is no need to apply the sequential test and therefore the development can be carried out and occupied safely.

Finally the proposal would provide a safe access and would give rise to no material change in the volume of traffic. Having regard to all of these considerations the proposal is acceptable.

RECOMMENDATION

- 1. That the Habitat Regulations Appropriate Assessment outlined within the Committee Report be adopted; and,**
- 2. That the application be APPROVED 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. Prior to commencement of any works on site (including demolition), tree protection details, to include the protection of hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. These shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the site works. Provision shall also be made for supervision of tree protection by a suitably qualified and experienced arboricultural consultant and details shall be included within the tree protection statement. The development shall be carried out strictly in accordance with the agreed details.

In any event, the following restrictions shall be strictly observed:

- (a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
- (b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For The Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.
- (c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.

(Reason - A pre-commencement condition is required to ensure retention and protection of trees on the site during and after construction. The condition is required in 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 D3 - Trees and Development Sites of the Adopted East Devon Local Plan 2013-2031.)

4. No development above foundation level shall take place until a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roof of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)

5. Development shall be carried out in accordance with the Drainage Strategy described in section 4 of the Flood Risk Assessment prepared by Tumu Consulting (revision 2, dated 12 June 2021, file reference 19415-R03-03).
(Reason - To ensure that surface water is managed appropriately in accordance with Policy EN22 - Surface Run-Off Implications of New Development of the East Devon Local Plan 2013-2031.)
6. The development hereby permitted shall be constructed in accordance with the final finished floor levels and finished ground levels shown in drawing BD2027:09.
(Reason - In the interests of neighbour amenity and to ensure that surface water is managed appropriately in accordance with Policies D1 - Design and Local Distinctiveness and EN22 Surface Run-Off Implications of New Development of the East Devon Local Plan 2013-2031.)
7. The dwelling hereby permitted shall not be occupied until the means of vehicular access has been constructed in accordance with the approved plans.
(Reason - In the interests of highway safety in accordance with the requirements of Policy TC7 - Adequacy of Road Network and Site Access of the East Devon Local Plan 2013-2031.)
8. Before the dwelling hereby permitted is occupied the first floor windows serving Bedroom 1 and En suite 1 on the south elevation, the first floor window serving En suite 2 on the west elevation and the first floor window serving the bathroom on the north elevation shall have been glazed with obscure glass and the obscure glazing of these windows shall thereafter be retained at all times.
(Reason - To protect the privacy of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), the roof of the dwelling hereby permitted, including the roof of the garage, shall not be enlarged, additional storeys shall not be constructed and no windows, dormer windows or other openings shall be constructed in any roof slope without the prior express consent of the Local Planning Authority.
(Reason - To protect the outlook and privacy of adjoining occupiers in accordance with Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)

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:

BD2027: 03 Rev B	Proposed Site Plan	28.05.21
BD2027:04 Rev B	Proposed Combined Plans	28.05.21
BD2027:05 Rev B	Proposed Combined Plans	28.05.21
BD2027:06 Rev B	Proposed Combined Plans	28.05.21
BD2027-08B	Proposed Combined Plans	24.06.21
BD2027-09	Proposed Combined Plans	24.06.21
BD2027:01	Location Plan	20.04.21

List of Background Papers

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