

Agenda for Planning Committee Wednesday, 17th March, 2021, 10.00 am



Members of Planning Committee

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

East Devon District Council
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Venue: Online via the Zoom App. All Councillors and registered speakers will have been sent an appointment with the meeting link.

Contact: Wendy Harris, Democratic Services Officer
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(or group number 01395 517546)

Issued: Thursday, 4 March 2021; Re-issued Monday, 15 March 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/UCmNHQruge3LVI4hcgRnbwBw>

Speaking on planning applications

In order to speak on an application being considered by the Development Management 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 8 March 2021 up until 12 noon on Thursday 11 March 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.

1 Speakers' list and revised order for the applications

The speakers' list and revised order for the planning applications has been removed.

2 Apologies

3 Declarations of interest

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

4 Matters of urgency

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

5 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.

Applications for Determination

PLEASE NOTE - If needed the meeting will be adjourned at approximately 1pm for a 30 minutes break

6 20/2514/FUL (Minor) BUDLEIGH & RALEIGH (Pages 4 - 12)

The Coach House, 9A Fore Street, Budleigh Salterton, EX9 6NG.

7 20/1582/FUL (Minor) BUDLEIGH & RALEIGH (Pages 13 - 26)

Barns At Higher Hawkerland Farm, Sidmouth Road, Aylesbeare, EX5 2JW.

8 20/1895/FUL (Minor) AXMINSTER (Pages 27 - 38)

Green Acres, Lyme Road, Axminster, EX13 5BH.

- 9 **20/2133/FUL (Minor) YARTY** (Pages 39 - 49)
Myrtle Farm, Chardstock, Axminster, EX13 7DD.
- 10 **20/1801/FUL (Minor) TALE VALE** (Pages 50 - 67)
Edenvale Turf, Courtlands, Dulford, Cullompton, EX15 2EQ.
- 11 **20/1636/FUL (Minor) FENITON** (Pages 68 - 79)
The Workshops, Deer Park Farm, Buckerell, Honiton, EX14 3EP.
- 12 **20/1808/FUL (Minor) FENITON** (Pages 80 - 93)
Owl Cottage, Treaslake Farm, Buckerell, Honiton, EX14 3EP.

Late Item

- 13 **Proposed letter to MP's in relation to permitted development in rural areas**
(Pages 94 - 95)

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

Ward Budleigh And Raleigh

Reference 20/2514/FUL

Applicant Mr & Mrs Robert & Meg Harris

Location The Coach House 9A Fore Street Budleigh Salterton EX9 6NG

Proposal Change of use from ancillary accommodation to the main dwelling to an independent residential use (Use Class C3) for holiday letting purposes



RECOMMENDATION: Refusal



| | | |
|--|--|---|
| | | Committee Date: 17th March 2021 |
| Budleigh And Raleigh (Budleigh Salterton) | 20/2514/FUL | Target Date: 15.02.2021 |
| Applicant: | Mr & Mrs Robert & Meg Harris | |
| Location: | The Coach House 9A Fore Street, Budleigh Salterton | |
| Proposal: | Change of use from ancillary accommodation to the main dwelling to an independent residential use (Use Class C3) for holiday letting purposes | |

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is before the Development Management Committee as the officer recommendation is contrary to the view of two ward members.

The proposal relates to the creation of an independent dwelling at the site for use as holiday accommodation.

The site is within Flood Zone 3 where the NPPF and Policy EN21 of the Local Plan resist further residential development unless through the application of the sequential test it can be demonstrated that the development cannot be provided elsewhere within Flood Zone 1.

It is considered that there are other locations within East Devon, which are in flood one, where holiday accommodation can be provided. Consequently, it is considered that the proposal fails the sequential test and, therefore, is unacceptable in flood risk terms.

The proposal is considered to be acceptable in all other regards. However, due to the failure of the sequential test and creation of a new residential unit in Flood Zone 3, the application is unacceptable and is recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council

This Council supports the application

Cllr Tom Wright

Having just looked again at the property I realised that it is situated on ground significantly higher than the land occupied by the main house. In fact the site of The Coach House projects into the ground on which Temple Methodist Church is sited so although the view 'from above' indicates it is in a flood zone the higher land lifts in considerably above the danger level. I did not have my phone with me but a picture demonstrates this very well.

I live close to the site, pass it daily and note the water level in the brook. It has never in 16 years come anywhere near overflowing.

Cllr Alan Dent

Thank you for letting me have sight of this report.

Whilst I appreciate that the buildings in question are in a flood zone and therefore the sequential test applies, I do not agree with conclusion which recommends refusal.

This building - as well as Abele Tree House - have not been affected by any flooding issues during my (nearly) twenty years in Budleigh Salterton and both the buildings have been there for many years.

The decision to refuse seems to go completely against what most of us - including the Town Council - feel is common sense and beneficial to the local tourist economy.

Therefore I would like to attend the delegated planning meeting and would be grateful for Zoom details.

Technical Consultations

Conservation

CONSULTATION REPLY TO CENTRAL PLANNING TEAM
PLANNING APPLICATION AFFECTING KEY BUILDING IN CONSERVATION
AREA

ADDRESS: The Coach House, 9A Fore Street, Budleigh Salterton

GRADE: Adj Key building APPLICATION NO: 20/2514/FUL

CONSERVATION AREA: Budleigh Salterton

PROPOSAL: Change of use from ancillary accommodation to the main dwelling to an independent residential use (Use Class C3) for holiday letting purposes

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

Abele Tree House is situated in a prominent position within the conservation area with the main public car park for the town on one side and the Temple Methodist Church on the other. It appears on the 1905 OS map and replaced an earlier house which

appears on earlier maps. Its architecture is quite indicative of the Edwardian villa tradition with slight Arts and Crafts overtones, particularly with the arrangement of gables on the south elevation. It retains many of its original features and following the refusal of 15/1881/MFUL has been repaired and renovated as a family home. The property is highlighted in the conservation area appraisal as a 'key building' which, although not included on the statutory list has been deemed to contribute positively to the character and significance of the conservation area.

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

This application relates to one of the outbuildings to the east of the main dwelling, known as The Coach House and comprises a detached two storey and single storey structure which was converted to ancillary accommodation under 88/P1828/FUL. The annex already has separate facilities and is accessed via the shared drive. Its significance derives from its age, traditional appearance/materials and its subservience as an outbuilding with a former use associated with the principal dwelling.

The proposals are for a change of use from ancillary accommodation to a holiday let with minor alterations, both internally and externally. The insertion of 2no. rooflights and patio doors will have minimal impact on the overall character and appearance of the building. However, since the structure has a very traditional appearance and there is a public view on the east elevation adjacent to the footpath/the Temple Methodist Church, a 'conservation style' rooflight flush with the frame would be more appropriate. The works are considered to result in less than substantial harm to the Coach House, the adjacent identified key building and the wider Budleigh Salterton Conservation Area.

PROVISIONAL RECOMMENDATION - PROPOSAL ACCEPTABLE

Environment Agency

Due to current reduced staff resource, for consultations on planning applications for change of use we are responding with a standard planning advice note and supporting Flood Risk Assessment checklist, which will allow you to determine the suitability of the application with regard to flood risk. These are attached for reference.

If your Authority is minded to refuse any such applications on flood risk grounds please notify us. If refusal of permission is appealed by the applicant we would be happy to support you at appeal.

Other Representations

None

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

EN21 (River and Coastal Flooding)

E16 (Proposals for Holiday or Overnight Accommodation and Associated Facilities)

EN10 (Conservation Areas)

TC9 (Parking Provision in New Development)

Budleigh Salterton Neighbourhood Plan (Made)

NPPF (National Planning Policy Framework 2019)

Site Location and Description

The site is located in the town centre conservation area and AONB. The host property is a modest structure set in substantial and established gardens. It is an indicative example of the early expansion of the town as a seaside resort and contributes positively to the conservation area.

Proposed Development

The application proposes to change an outbuilding, currently used as an annex, to independent residential use to be let out as holiday accommodation.

The application details that the building is no longer used as an annexe and is falling into disrepair. To facilitate the use of the building as a holiday let, the submitted plans propose the addition of two new rooflights, additional access door and provision of a patio garden.

ANALYSIS

The main issues for consideration are the principle of development, matters of flood risk and design and impact upon the Conservation Area and AONB.

Principle

The site is located within the BUAB for Budleigh Salterton where new residential development including holiday accommodation is supported in principle.

Other Strategies and policies in the Local Plan also support tourism.

As such the principle of development is acceptable.

Flood Risk

The Environment Agency has commented on the application recommending that their standing advice is applied. As the site is in Flood Zone 3, the Sequential Test must be considered.

The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding, as described in paragraph 158 of the National Planning Policy Framework (NPPF).

The application building lies within Flood Zone 2 and Flood Zone 3 (high probability of flooding). The aim of the sequential test is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding). Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered.

It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case.

Paragraph 155 of the NPPF advises that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere." As domestic accommodation is considered to be high risk use, it is considered to be inappropriate in a location at risk of flooding.

The creation of an additional independent residential use through conversion of an existing building is not one of the limited exceptions to the application of the sequential test in either Policy EN21 of the Local Plan or paragraph 164 of the NPPF. Furthermore, the PPG (7-046-20140306) seeks to clarify that that the exception made for householder development excludes any proposed development that would create a separate dwelling within the curtilage of the existing dwelling. Accordingly, despite the limited physical alterations involved, both local and national policy require a sequential approach to be applied.

The resistance of new residential development within flood zones is not only logical in terms of protecting property, but also in terms of minimising the number of people in flood zones to ensure that emergency services are not put under more pressure in a flood event.

Sequential Test

No information has been provided by the agent about the availability of other sites at lower risk of flooding.

It is considered that the catchment area for applying the sequential test would be the District of East Devon. Whilst the Local Plan supports the creation of holiday

accommodation to support the vitality and viability of the tourist industry, this is not specific to any particular village or town. Additionally, the Budleigh Salterton Neighbourhood Plan does not make any specific reference to the need for additional holiday accommodation.

In any event, even if the geographic area were limited to Budleigh, the Council currently has a 5 year housing supply of land and it is considered that there would be land and buildings available for a single dwelling, or holiday let, to be provided which would not be in the flood zone 2 or 3. The proposal would, therefore, fail the sequential test, which seeks to direct new development to areas at lower risk of flooding.

The proposal is therefore unacceptable in terms of creating residential development within a flood zone contrary to the guidance in the NPPF and Policy EN21 of the Local Plan.

Design and impact upon the Conservation Area and AONB

Abele Tree House, or as 9 Fore Street is also known, dates from the late Victorian or early Edwardian period and replaced an earlier dwelling on the plot. The house is set within a substantial and established garden with a level lawn at the front and a walled garden rising at the rear. There is substantial vegetation on the front boundary, including a prominent grey poplar tree and other specimens. The recessive nature of the house and its green and leafy setting contribute positively to the character and appearance of the area.

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires planning decisions to pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area. This is supported by Local Plan policy EN10 and the National Planning Policy Framework which includes the core principle that heritage assets should be conserved in a manner appropriate to their significance. There is also a duty under Strategy 46 for proposals to conserve and enhance the AONB.

Development which does not preserve or enhance the character and appearance of the conservation area can be permitted but it must carry some advantage or benefit which outweighs the failure to satisfy this requirement. This is reinforced by paragraphs 193-202 of the NPPF which direct that any harm to a designated heritage asset should be weighed against the public benefits of the proposal. In this case the designated heritage asset is the conservation area and the existing dwelling contributes positively to its character and appearance. In this case the proposals are for a change of use from ancillary accommodation to a holiday let with minor alterations, both internally and externally. The insertion of 2no. rooflights and patio doors will have minimal impact on the overall character and appearance of the building. However, the east elevation is visible from public areas adjacent to the footpath/the Temple Methodist Church. As such a 'conservation style' rooflight flush with the frame would be more appropriate. The works are considered to result in less than substantial harm to the Coach House, the adjacent identified key building and the wider Budleigh Salterton Conservation Area.

In this case the harm caused is deemed to be minimal and it is therefore considered that minor public benefits would need to be demonstrated in order for the proposal to be acceptable. In this instance the provision of additional holiday let within Budleigh would provide modest benefits to the local economy as users of the accommodation are likely to utilise and engage with local attractions, services and facilities. As such the application is considered to be in accordance with Policy EN10 (Conservation Areas) of the East Devon Plan, Policy H2 (Maintaining Local Character) of the Budleigh Salterton Neighbourhood Plan.

Given that the site sits within the urban area, the proposal is not considered to harm the landscape character of the AONB.

Appropriate Assessment

The nature of this application and its location close to the Exe Estuary and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. 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 work 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

Whilst the application is considered to preserve the conservation area and AONB, there is an in principle objection to the creation of an additional residential unit within Flood Zone 3. This is contrary to guidance in the NPPF and contrary to Policy EN21 of the Local Plan that resist development within flood zones. As such the application is recommended for refusal for the reasons listed below.

RECOMMENDATION

REFUSE for the following reasons:

1. The development proposes a more intensive residential use of a site within Flood Zone 3 and as such represents more vulnerable development in a designated high risk flood zone where there is a requirement for the sequential test for site selection to be applied. In this case the sequential test is not met as it has not been adequately justified that there are no alternative sites which

could provide the development proposed on sites of lower flood risk. The development is therefore contrary to policy EN21 (River and Coastal Flooding) of the East Devon Local Plan 2013-2031 and the guidance set out within the National Planning Policy Framework and National Planning Practice Guidance.

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:

| | | |
|---------------|-------------------------|----------|
| | Flood Risk Assessment | 21.12.20 |
| | Location Plan | 21.12.20 |
| D071-20-104 A | Proposed Combined Plans | 21.12.20 |
| D071-20-103 | Proposed Floor Plans | 12.11.20 |

List of Background Papers

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

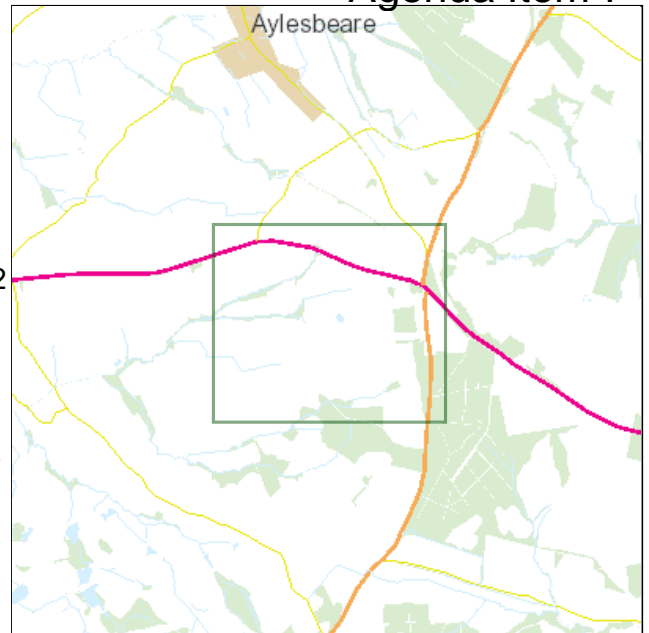
Ward Budleigh And Raleigh

Reference 20/1582/FUL

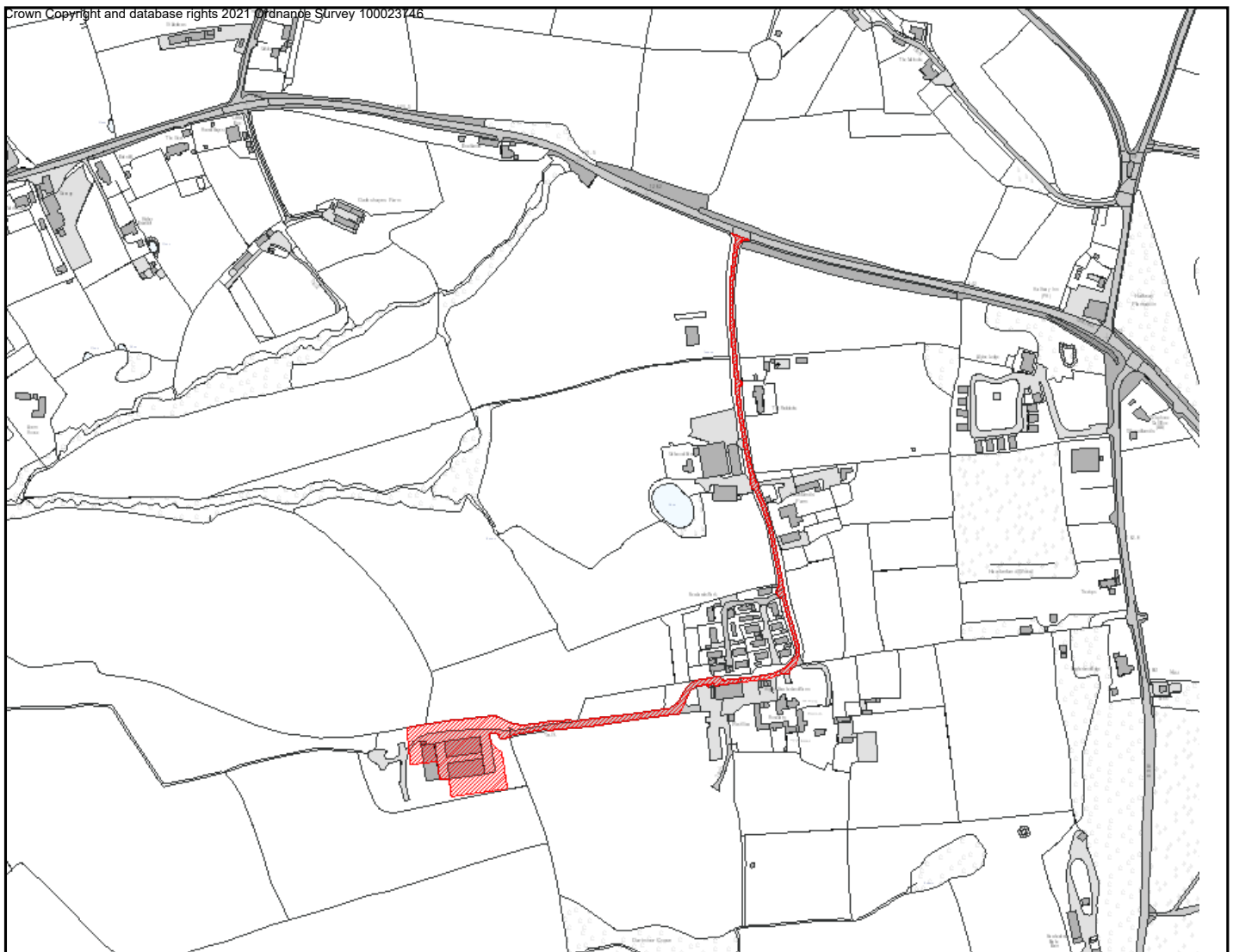
Applicant Wyatt

Location 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)



RECOMMENDATION: Refusal



| | | |
|---|--|--|
| | | Committee Date: 17th February 2021 |
| Budleigh And Raleigh (Colaton Raleigh) | 20/1582/FUL | Target Date: 18.11.2020 |
| Applicant: | Wyatt | |
| Location: | Barns At Higher Hawkerland Farm Sidmouth Road | |
| 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) | |

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

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

Retrospective planning permission is sought for the use of three former calf-rearing buildings as ten storage and distribution units for rent. The conversion took place without permission in 2019 and most of the units have been occupied since early 2020.

The Local Plan supports rural enterprises that are appropriate in scale and type for their surroundings. Subject to those considerations it also supports the reuse of redundant farm buildings and activities which support the continuation of farming in the area.

In this case there is little evidence that the development is supporting agriculture as there appears to be little agricultural activity following the cessation of calf-rearing. Moreover there is no evidence of a business plan for the agricultural land demonstrating how income would be invested in farming. It is unclear therefore whether this is a genuine diversification project or a departure from farming. This weighs against the scheme.

The site is accessed off of a private single track road which provides access to 27 dwellings, 18 of which are park homes. Around 11 of the dwellings are adjacent or close to the road leading to the storage units. Evidence has been provided that the development has resulted in a substantial increase in the volume of traffic passing these dwellings, much of which is vans and lorries. Prior to the development the dwellings had enjoyed a relatively quiet rural setting interrupted only by the activity and sounds which can be expected in a farming environment. The commercial traffic associated with the storage units gives rise to noise and dust throughout the day and into the evening which is harmful to the living conditions of those who live alongside the access. This harm to a significant number of properties attracts substantial weight.

Although there are economic benefits associated with the development, given the substantial harm to living conditions, the development is not appropriate in this location and therefore the proposal is recommended for refusal.

CONSULTATIONS

Local Consultations

Budleigh And Raleigh - Cllr Alan Dent

At the request of the owner of Higher Hawkerland Farm, I visited the site today, 25 November 2020 to discuss this planning application.

Background.

Until March this year the farm grew and nurtured some 500 head of calves from a few weeks old until ready for sale to retailers for meat. Under developing government policies and the considerable efforts to eliminate TB the movement of calves has been gradually discouraged. To this end the farmer was advised in early 2020 that no more calves would be delivered.

This created a major setback to the viability of the farm's operation and alternative uses for the barns where the calves were housed had to be found quickly. As there is a need for storage in the area it was decided to convert the barns from cattle sheds into secure storage units. To achieve this the existing units were cleaned out, timber cladding was applied, and large roller shutter doors installed. This is the situation today with 10 individual units available to individual customers to rent for storage. Some of the items currently in store include high value scrap metal; mobile traffic signals; small items of plant for building contractors; electrical goods and other assorted items.

Planning Issues

The Colaton Parish Council considered this application at the meeting on 2 November 2020. Some of the issues raised included:

- Increase in vehicular traffic
- Poor access to the A3052
- Concern over scrap metal dealers
- Noise and disturbance to neighbours (Newlands Park)
- Lack of welfare facilities

During my visit I was able to ascertain that:

- Vehicle movements are infrequent. Storage does not create large traffic movements by the nature of the businesses.
- The access to the A3052 is adequate with good visibility either side of the entrance
- The scrap metal was locked securely away and out of site.
- The nearest neighbours in Newland Park are some 250 - 300 metres away and I do not believe the residents would suffer undue noise or disturbance from traffic movements
- A portable toilet has been installed which is serviced on a weekly basis.

In my opinion this is a well-managed enterprise which benefits not just the owners but also several small businesses in the area and utilises existing buildings which are quite remote from any dwellings. The work carried out to make the barns suitable for secure storage has enhanced them both practically and visually.

I am happy to support this application.

Parish/Town Council

The Parish Council would like to make the following observations with regard to this application.

- It is considered that this proposal will produce a significant increase in vehicular movements over and above the previous agricultural use.
- The junction at which the site access road meets the A3052 is poor and there appear to be no proposals for improvement.
- The sui-generis class use associated with the letting of several units to scrap dealers could leave potential future uses unclear, and lead to more intensive use of the access by heavy vehicles.
- In order to protect nearby residents from any detrimental impact caused by noise and disturbance from vehicles accessing and leaving the site, hours of operation need to be defined and strictly implemented.
- The proposals do not include for any provision of welfare facilities (merely the removal of those already provided).

Other Representations

Two representations in support have made the following comments:

- The traffic is much cleaner, lighter and within more sociable hours than when the sheds were being used for calf rearing, which would often mean articulated lorries coming to and from the farm throughout the night and early hours of the morning.
- The traffic has changed in nature over time from large cattle trucks and farm machinery to a noticeable increase volume of vans and smaller trucks associated with the storage units and home deliveries to residential properties.
- There has been a clear decrease in traffic and most of the vehicles that come in the lane are delivery vans (Yodel, Amazon, etc) for residents and not traffic travelling to or from the units.

- No significant impact on our immediate surroundings with regard to noise, pollution and residential amenity.
- The recent signage and speed limits installed (along with speed humps and 2 passing places already in place) has helped to manage the traffic and improve safety in the lane - this was particularly needed for the blind corner.
- The corner has posed no issues to date.
- The access to and from the A3052 was widened in 2013/14, and is satisfactory with good visibility to oncoming traffic.

One neutral representation has been received:

- Road improvements and resurfacing is needed to cope with the increased traffic where higher Hawkerland lane joins the A3504.

Two objections have been received raising the following concerns:

- The traffic survey detailed in the proposal demonstrates that the impact of the change of use on traffic volume is significant. On average, the site generates 8x the volume of traffic that the equivalent farming operations do. The site causes total traffic to almost double.
- Our own survey shows an average of 6 site vehicles per hour, contrary to the 3 quoted in section 6.2.4 of the WSP transport statement.
- The blind 90-degree bend on the private access lane combined with the significant volumes of site traffic poses a significant safety issue to cyclists,
- The proposed change of use to a commercial storage and distribution site does not respect the quiet residential characteristics of the area.
- It has also been observed that the site traffic operates outside of business hours. This anti-social use of the shared access harms the 28 neighbouring residential dwellings right to enjoy a quiet and safe residential environment.
- We have experienced a detrimental impact in the form of increased traffic volumes and associated noise, disturbance, and air pollution since the change of use.
- Noise, as a result of:
 - The uneven access track surface
 - Speed at which site vehicles travel - unenforceable speed limits of the 10mph and 15mph casual speed limit signage
 - Heavy nature of site vehicles and unsecured contents being transported
- Air pollution:
 - The loose rubble access track generates an amount of dust particulate matter in the surrounding residential area. This may pose health hazards and is a great nuisance.
- The increased volume of commercial traffic will cause a rapid decline in access lane quality.
- The access lane is a single width track with a blind 90-degree bend which has been the cause of several near-miss incidents involving site traffic.
- Over the last year, living at Higher Hawkerland has become a nightmare for many residents.
- Our main objection is to the sheer volume of traffic that travels at high speed.

- These are commercial lorries and vans which also operate outside of usual working hours.
- Children and elderly residents use the lane but it has become extremely dangerous to walk along (for example to the bus stop at the end of the lane).

Technical Consultations

The Health & Safety Executive

The Health and Safety Executive (HSE) is a statutory consultee for certain developments within the Consultation Distance of Major Hazard Sites/ pipelines. This consultation, which is for such a development and is within at least one Consultation Distance, has been considered using HSE's planning advice web app, based on the details input on behalf of East Devon District.

HSE's Advice: Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

Devon County Highway Authority

Observations:

The CHA has visited the site and examined the application details and has the following comments:

The existing access junction of the private road and the A3052 Sidmouth Road has adequate visibility splays for the signed traffic speed on the A3052 as shown in the Transport Statement that accompanies the application. There are also junction warning signs on both approaches on the A3052.

The private road is mainly between 2.5m to 3.0m in width making it a single track road and up to the 90 degree bend is surfaced with a bound material.

At the junction with the A3052, the private road access apron is widened to 6.0m to allow for two vehicles to pass one another, this also gives space for entering vehicles to wait for exiting traffic without obstruction to the main road.

The informal passing places, comprised in some cases of accesses to existing buildings and dwellings, are inter-visible of each other allowing for vehicles to see one another and to wait for a vehicle to pass.

There are speed advisory signs (15mph and 10mph) at many places along the private road and there are two number 'speed humps'.

At the 90 degree bend in the private road there is ample widening to allow vehicles to pass one another. The road from here on is of an unbound compacted surface to the application site.

I believe that the existing access of the private road in terms of its junction with the adopted highway and its horizontal alignment with passing places and the recommended advisory speed signs is adequate for pedestrians and cyclists and for the proposed development and the traffic it would generate.

ADVISORY NOTE FOR APPLICANT

I visited the site when the weather was dry and sunny and therefore I do not know how well the private road drains surface water in a period of wet or inclement weather or how the section of unbound surface would cope with a prolonged period of severe ground frosts and advise the applicant to make suitable drainage and surface repairs if and when it becomes rutted. This being said the CHA has no jurisdiction over this private road only its connection with the adopted highway.

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 |
|-------------|--|--------------------------|------------|
| 12/2347/FUL | Cattle building, dung store and access track | Approval with conditions | 13.12.2012 |
| 13/0029/FUL | Proposed agricultural livestock building and access. | Approval with conditions | 09.04.2013 |
| 13/0030/FUL | Proposed agricultural livestock building and access | Approval with conditions | 09.04.2013 |

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 28 (Sustaining and Diversifying Rural Enterprises)

D1 (Design and Local Distinctiveness)

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

E4 (Rural Diversification)

E5 (Small Scale Economic Development in Rural Areas)

EN14 (Control of Pollution)

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

Higher Hawkerland Farm is located on the south side of the A3052 within the parish of Colaton Raleigh. It is accessed from a private road which joins the A3052 about 350m metres west of the Halfway Inn. The road serves a total of 27 residential properties, 18 of which are in a park home development known as Newlands Park. The farmhouse and a number of barn conversion dwellings are located at the end of the private road where the road turns sharply to the west. Continuing west past the dwellings a track leads to the application buildings which are clustered together around a yard and are surrounded by agricultural land. In addition to the application buildings there is an unauthorised mobile home which is the subject of a separate application.

Proposal

Retrospective planning permission is sought for the use of three former farm buildings as ten storage and distribution units, retaining part of one of the buildings in agricultural use. The proposal also includes retention of hardstanding areas beyond the original yard which are for parking and additional outside storage.

Background

In 2001 the Wyatt family came out of the dairy industry and rented out their 90 acres of land to another farm. Around ten years later they decided to return to farming and set up a beef rearing enterprise. To facilitate this, three buildings were granted planning permission in 2012 and 2013 and were completed in October 2013. They were immediately brought into use housing cattle but the business was unviable and the stock was sold in the summer of 2014. In September 2015 a calf rearing contract with Blade Farming commenced and later that year 200 sheep were purchased to help cash flow. With the business struggling a calf rearing contract with VB Farms began in June 2017. The business improved and the sheep flock reduced but in April 2019 VB Farms gave notice that the contract was to end owing to a change in TB regulations. The last calves left the farm in August of that year. Unable to secure a new contract or finance for a new farming enterprise, the applicant explored whether there would be a market for industrial units. The market response was positive and the buildings were converted without the necessary planning permission. The first tenants moved in during December 2019 at which time all of the units were reserved. In January 2020 the unauthorised conversion came to the attention of the Local Planning Authority and the applicant submitted this retrospective application six months later.

It should be noted at this stage that because the buildings have not been in use for at least 10 years and are within a 'safety hazard zone' owing to their proximity to a gas pipeline, they do not benefit from permitted development rights to convert to a commercial use under Class R of the General Permitted Development Order. Further

requirements that the floor space should not exceed 500 square metres and that prior approval should be sought before carrying out the development confirm that there is no fallback position.

ANALYSIS

The site is not within a defined settlement and is therefore in the countryside for Local Plan purposes. Strategy 7 supports development in such locations only where it is in accordance with a specific Local or Neighbourhood Plan policy. A number of policies in the Local Plan support economic development in rural areas and on farms and the following policies are of particular relevance:

- Strategy 28 - Sustaining and Diversifying Rural Enterprises,
- D8 - Re-use of Rural Buildings Outside of Settlements,
- E4 - Rural Diversification and
- E5 - Small Scale Economic Development in Rural Areas.

There is no Neighbourhood Plan for Colaton Raleigh.

The main issue is whether the location of the site is suitable for ten storage and distribution units. This can be broken down into four component issues:

- Whether the development is compatible with farming activities.
- Whether the development conserves the character and appearance of the area.
- Whether there is safe access to the site.
- Whether the development is appropriately located having regard to the living conditions of the occupants of the dwellings that are accessed from the private road.

Compatibility with farming

Strategy 28 and Policy E4 support farm diversification and Policies E5 and D8 support the re-use of rural buildings for business purposes. Although these policies support business development in rural locations, the support is subject to a number of conditions which reflect the need to protect the natural environment and amenity.

The policy support for farm diversification activity presumes that the new activity will help to sustain an agricultural enterprise. However, as the background information indicates, the applicant has had limited success at farming the land in recent years. Since the ending of the calf rearing enterprise it is believed that the applicant has continued to keep some sheep although, as their own evidence indicates, the land is too wet for keeping large numbers.

Whilst the drawings indicate that part of one of the buildings would be retained for agricultural purposes, the conversion of the majority of the floorspace suggests that the proposal is an alternative to farming rather than complementary to it. The lack of any information about future plans for the farm adds weight to this argument.

In the absence of a business plan setting out how the storage units would support farming activities rather than replace them, it is not clear whether the buildings are truly redundant or whether they could be used for agricultural purposes. As a consequence there is insufficient evidence to conclude that the storage units provide any meaningful support for agricultural activity on this farm and hence that they are

justified in this location. This conflicts with Strategy 28 and Policy E4 and weighs against the proposal.

Character and appearance

The policies also require business development in rural areas to be compatible with local character. Although this site lies outside the AONB, the landscape surrounding the site has an intrinsic character and beauty which is also valued. In contrast, the applicant appears to have little regard for the rural setting of the buildings and has allowed the land to become littered with waste material and scrap. However, much of this is beyond the boundary of the application site and therefore outside the scope of this application.

The land levels indicate that the site is reasonably self-contained by embankments that define the site boundaries. While the evidence suggests that these are not effective in preventing damaging use of the surrounding farm land, they provide a good basis for the provision of additional boundary features, such as fencing and hedges which would have some beneficial effect. Notwithstanding the unsightly waste material beyond the site boundary, the visual impact of the re-purposed buildings and the adjacent yard areas would be acceptable and would have only a minor adverse effect on the rural character of the area by virtue of the commercial activity.

Highway safety

Associated with the use of the barns for storage purposes there would be regular vehicle movements to each of the ten units, as well as residual traffic associated with any farming activity. The applicant has provided a transport statement prepared by WSP (transport planning) assessing the suitability of the access in relation to highway safety.

The barns are about 800m from the main road along a private road/track and the first 450m are shared with 27 residential properties. The road varies in width but is essentially a single track road with passing places in the form of laybys and accesses with good intervisibility. The road widens at a 90 degree bend near Higher Hawkerland Farm and is wide enough for two way traffic at that point. Visibility at the junction with the A3052 is good. Given these characteristics the Local Highway Authority are content that the road leading to the storage units, as well as the junction with the A3052, are safe for the increased volume of traffic.

Notwithstanding that conclusion, local concerns have been raised about the safety of pedestrians and cyclists. There are no pavements adjacent to the private road and therefore residents walk on the road for exercise or to access the bus stop on the A3052. The road has informal speed limits of 10 and 15 mph and two speed humps but anecdotal evidence suggests that the speed limits, which are not enforceable, are often exceeded. In the absence of street lights and pavements some care is needed when using this road. Notwithstanding the shortcomings, the Local Highway Authority has confirmed that the road is adequate for pedestrians and cyclists.

Although the Highway Authority has no jurisdiction over the private road they have advised that the applicant should make suitable drainage and surface repairs if and

when it becomes rutted. Notwithstanding the lack of Highway Authority jurisdiction, it may be considered reasonable to require an improved surface treatment around the residential areas for reasons of amenity.

Subject to consideration of an improved surface treatment on parts of the road, the proposal satisfies the highway safety requirements of Policy TC7.

Living conditions

While the increased volume of traffic is acceptable in terms of highway safety, the impact on the living conditions of the residents who live alongside the road also needs to be considered. A traffic survey was carried out by the applicant across a 44 day period from 7th July 2020 to 20th August 2020 using a traffic survey counter. The methodology for this survey has not been explained but an account of the vehicle movements has been provided in an appendix to the transport statement. This shows vehicle movements associated with the storage units beginning shortly after 7am and frequently carrying on until after 9pm, although finishing earlier at weekends. The number of traffic movements associated with the units is similar to the number associated with the dwellings at Higher Hawkerland Farm, although cars are the predominant vehicle type associated with the dwellings whereas vans and lorries form the bulk of the traffic associated with the storage units. The survey period therefore shows that there was a substantial increase in the volume of traffic using the private road and a change in the type of traffic compared to the time before the development when there was only residential and farm traffic. This survey is considered to be a more reliable source of information than some of the anecdotal comments provided in the representations.

The survey represents a snapshot in time and since it was undertaken the business which the applicant says generated 40-50% of the vehicle movements has vacated their unit. Furthermore, according to the Transport Statement, the applicant has "agreed that the next occupier of Unit 1 must generate a small number of trips." In practice, this is not easy for the applicant to predict or control and is certainly not enforceable as a planning condition. Although past measurements of traffic are not a guarantee of future numbers, they represent the best source of information available. In view of that, it is reasonable to predict that the substantial change in the character and volume of traffic using the private road would persist as a result of this development.

There are mixed views among the limited number of residents who have commented on the proposal. Some consider that there is no adverse impact on their amenity, whereas others complain about traffic noise, dust, anti-social hours and safety of pedestrians and cyclists. The difference may be explained by their proximity to the road. In this regard it is noted that there are about 11 properties adjoining or close to the road, other than the applicant's dwelling.

Prior to the completion of the storage units the private road served what could reasonably be described as a quiet residential and farming area with no through traffic. Although activity associated the farms that share the access inevitably gives rise to some impacts on amenity, these tend to be periodic and readily tolerated in a rural setting.

In contrast, frequent van and lorry movements throughout most of the day (7am-11pm), continuing at weekends, is out of character with the otherwise tranquil surroundings. Large vehicles transporting goods for storage and distribution, currently including scrap metal, repeatedly generate noise and dust throughout the day and into the evening. This has the greatest adverse effect on the 11 or so properties closest to the private road, some of which are only separated by a boundary fence or hedge. Such activity is uncharacteristic of this residential and farming area and would result in poor living conditions for local residents, particularly those nearest the road.

Much has been made of the traffic generated by the former agricultural use of the buildings. It is said that this activity generated significant traffic associated with delivering and collecting calves, delivering animal feed and disposing of waste associated with the rearing. It is also said that these vehicular movements frequently occurred beyond usual working hours and involved large lorries. Though undoubtedly such activity did take place, there is no evidence that it was as intensive as the activity likely to be associated with ten storage units.

Consideration has been given to whether conditions could be imposed on the development to make it acceptable. However, the only means by which the impacts could be controlled is by limiting the hours of operation, such as 8am to 6pm Monday to Friday 8am to 1pm on Saturday and at no time on Sundays and Bank Holidays. This would be highly unusual for an industrial development because good practice dictates that such development should be located where controls are not necessary. Furthermore such a condition would create inflexible terms for the occupants of the units and fail to remedy the adverse daytime impacts on residents. Moreover, although the condition could be enforced, it would be prone to abuse and place a burden on residents to report any breaches.

In the absence of any satisfactory means of control, the adverse impact of the development on local residents weighs heavily against the scheme and means the proposal conflicts with Strategy 7, and Policies E4, E5 and D8, as well as those dealing specifically with amenity impacts, namely D1 and EN14.

Other Matters

As noted above, the buildings are within the consultation distance of a high pressure gas pipeline and therefore consultation with HSE has been undertaken. They have raised no objection, but this is on the assumption that there would be fewer than 100 people working in the units. Given the scale of the development this is a reasonable assumption.

CONCLUSION

The Local Plan supports rural enterprises that are appropriate in scale and type for their surroundings. Subject to those considerations it also supports the reuse of redundant farm buildings and complementary activities which support the continuation of farming in the area. This proposal has failed to demonstrate that it is complementary to farming, that the loss of the buildings would not hinder the future agricultural activities and that the development is of a scale and type that is compatible with

preserving the living conditions of the occupants of dwellings that share the access. These concerns attract substantial weight.

The economic benefits associated with the development only attract modest weight, however. This is because there is no evidence that there is an overriding need for storage buildings in this location nor that other more appropriate sites are not available to meet any need that may be identified.

Given the substantial harm to living conditions, the development is not appropriate in this location and therefore the proposal is recommended for refusal.

RECOMMENDATION

REFUSE for the following reasons:

1. By virtue of the excessive volume and the commercial character of the traffic generated by the development, the proposal would cause persistent harm to the living conditions of residents of dwellings adjacent to the access road by way of noise and dust pollution. Development would therefore be contrary to Strategy 7 - Development in the Countryside and Policies D1 - Design and Local Distinctiveness, D8 - Re-use of Rural Buildings Outside of Settlements, EN14 - Control of Pollution, E4 - Rural Diversification and E5 - Small Scale Economic Development in Rural Areas of the 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 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:

| | | |
|------------|--------------------|----------|
| 8081-03 : | Existing Combined | 12.08.20 |
| Floor/roof | Plans | |
| 8081-04 | Existing Elevation | 12.08.20 |
| 8081-05 : | Existing Combined | 12.08.20 |
| Floor/roof | Plans | |
| 8081-06 | Existing Elevation | 12.08.20 |
| 8081-07 | Existing Site Plan | 12.08.20 |

| | | |
|-------------------------|----------------------------|----------|
| 8081-08 : Floor/roof | Proposed Combined Plans | 12.08.20 |
| 8081-09 | Proposed Elevation | 12.08.20 |
| 8081-10 : Floor/roof | Proposed Combined Plans | 12.08.20 |
| 8081-11 | Proposed Elevation | 12.08.20 |
| 8081-12 : Floor/roof | Proposed Combined Plans | 12.08.20 |
| 8081-13 | Proposed Elevation | 12.08.20 |
| 8081-14 | Proposed Site Plan | 12.08.20 |
| 8081-100 B | Combined Plans | 12.08.20 |
| 8081-LP B | Location Plan | 12.08.20 |
| 8081-01 : Floor/roof | Existing Combined Plans | 12.08.20 |
| 8081-02 | Existing Elevation | 12.08.20 |

List of Background Papers

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

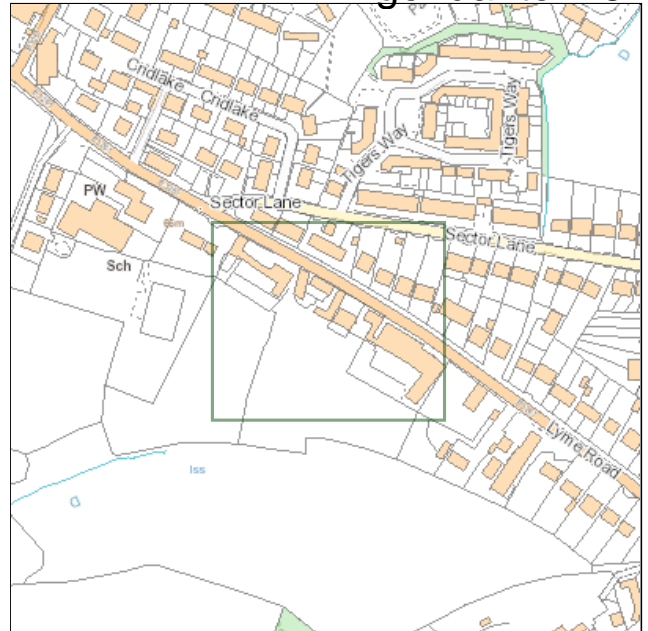
Ward Axminster

Reference 20/1895/FUL

Applicant Mr Peter Crosby

Location Green Acres Lyme Road Axminster EX13 5BH

Proposal Construction of garage and barn (partially retrospective)



RECOMMENDATION: Approval with conditions



| | | |
|----------------------------------|--|---|
| | | Committee Date: 17th March 2021 |
| Axminster (Axminster) | 20/1895/FUL | Target Date: 10.02.2021 |
| Applicant: | Mr Peter Crosby | |
| Location: | Green Acres Lyme Road | |
| Proposal: | Construction of garage and barn (partially retrospective) | |

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members having been referred from a Chair Delegation meeting.

Whilst the many concerns and comments from the Ward Members, Town Council and local residents are appreciated and understood, the application is seeking consent for an outbuilding to a garden area associated with a dwelling.

The proposed building, whilst large, would help to tidy up the appearance of the site and is not considered to have an impact upon the amenity of surrounding residents to an extent that could justify refusal of planning permission. In addition, the visual impact from the building is considered to be acceptable, being viewed against the backdrop of existing buildings. Other matters of concern raised are either civil matters or outside of the control of this planning application.

The application is therefore recommended for approval; to retain the existing construction and allow the extension to it as shown on the submitted plans conditional on provision of surface water drainage from the building, restriction in terms of use and additional boundary planting.

CONSULTATIONS

Local Consultations

Axminster - Cllr Ian Hall

I see no justification for an agricultural barn or garage and I note that there has been no pre application engagement with Planning East.

The present footprint is very dominating and retrospective Planning should also be refused.

Axminster - Cllr Sarah Jackson

Having reviewed all of the available planning documents and taking into account the representations from numerous members of the public, together with those from the town council and my fellow ward member, I believe that this application should be refused on the following grounds.

- 1 Loss of Light/Overshadowing/Adverse impact on neighbouring properties
- 2 Design and Scale of the proposed building out of keeping with neighbouring properties
- 3 Potential noise (and fume) nuisance to neighbours
- 4 Concerns over vehicle access and impact on highway safety

Furthermore, I have grave concerns regarding the current activity on this site which appears to be an element of commercial activity on land specifically designated as a residential garden amenity. I can quite understand neighbours concerns and objections. Might this be something that our planning enforcement team can investigate as a matter of urgency?

Finally, there appears to be some disagreement between parties in relation to the access into Magnolia House carpark. Whilst I have not been on site personally, I note from a great many of the public representations the same query and believe that this is an additional area for investigation.

Axminster – Cllr Andrew Moulding

My comments regarding application 20/1895/FUL as follows:

I would wish to refer back to the original application for change of use for part of the field in question Ref 15/2682/FUL. This was approved although there were concerns. The plans showed an area for “raised vegetable beds / allotment” and “main garden to Green Acres”, with a “children’s play area” in the corner.

The permission granted stated that any proposals for future development should be adequately controlled and that there should be a removal of permitted development rights. Hence the need for planning approval for buildings on the garden plot.

The planning approval also required tree planting on the boundary line of the site. **IN OVER FIVE YEARS THIS HAS NOT BEEN CARRIED OUT!**

This planning application seeks retrospective planning permission for a barn, far larger than the shed which has been partly erected **WITHOUT PLANNING APPROVAL**

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Following many visits from the enforcement officer, due to the disgraceful condition of the site, the applicant agreed to submit a retrospective planning application for a barn – of HUGE proportions 25m x 5.5m - far longer than a cricket pitch!

The height of this proposed building is 4.8m to the ridge and when one considers that a regular house height - from floor to eaves is 6m – this building is of epic proportions..... and when it’s built, will it really be used to house all the artefacts strewn around the site? The track record of the applicant makes me consider that this would be unlikely!

Now to consider the main PLANNING issues. There are 13 properties which look out onto the site from the rear of the houses in Lyme Road. They will all see this huge barn when sitting out in their rear gardens.

It is far too dominant and has an adverse effect on neighbouring residents.

For those reasons,
I disagree with the recommendation and propose that the application is REFUSED.

Parish/Town Council

AXMINSTER TOWN COUNCIL IS IN AGREEMENT WITH THE LOCAL RESIDENTS WHO HAVE RAISED OBJECTIONS TO THIS APPLICATION. THE SIZE OF THE PROPOSED BUILDING IS NOT APPROPRIATE FOR A GARDEN CURTILAGE. IT IS QUESTIONABLE WHETHER THE PROPOSED MATERIALS/CONSTRUCTION COMPLY WITH BUILDING REGULATIONS. NO INFORMATION HAS BEEN SUPPLIED REGARDING THIS DISPOSAL OF RAINWATER RUN OFF FROM THE BUILDING. COUNCILLORS FELT THAT THE ENFORCEMENT OFFICER SHOULD VISIT THE SITE AS THERE ARE CONCERNS THAT THE LAND IS BEING USED FOR UNAUTHORISED PURPOSES.

Technical Consultations

Devon County Highway Authority

Observations:

The site is located on Lyme Road, Axminster, the existing access to be utilised for the proposed garage is adjacent to the public house, Lamb Inn.

The existing access has limited visibility in the South-east bound direction due to the bordering wall and on-street parking, the visibility in the north-west direction is reasonable. The important factor at play here though is the proposal would not currently increase the trip generation of this access, (a dwelling e.c.t) therefore as the access is existing and would not have an increased usage, the County Highway Authority would have no grounds to recommend refusal due to highway safety implications.

However should this site come forward for future applications which may well increase the vehicular usage of this site, we would at that time be in a position to review our stance.

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

Officer authorised to sign on behalf of the County Council
17 January 2021

Other Representations

A considerable number of third party comments have been received from 13 properties (totalling approximately 60 pieces of separate comment) raising the following objections and concerns from direct neighbours as well as staff, residents and family members of those at Magnolia Residential Home.

(All of the comments received have been read and considered).

Uppermost and raised by nearly all the correspondence is the concern over the appearance of the site where the building is proposed and wider area within the applicant's ownership used for the storage of building materials, machinery, boats, cars and sit-on lawn mowers

The scale and materials proposed would cause a visual and character impact and are unjustified

Two buildings are proposed not one

Unacceptable noise to neighbouring properties

Overlooking of neighbouring properties

Loss of privacy of neighbouring properties

Loss of views from neighbouring properties

Impacts from business to be run from building

Use of access introduces highway safety concern

Additional comments made about other matters raised in correspondence including access for third parties, public rights of way, the construction of a conservatory and decking, non-compliance with conditions relating to previous application 15/2682/FUL and Building Regulations are covered in a separate section within the report.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

EN22 (Surface Run-Off Implications of New Development)

D7 (Agricultural Buildings and Development)

TC7 (Adequacy of Road Network and Site Access)

Site Location and Description

Green Acres is a two storey dwelling fronting onto Lyme Road alongside dwellings with a similar relationship. Access to the piece of land where the building is proposed is via a gate at the corner of the car park of the Lamb Inn to the north west. The building is proposed to be constructed in the eastern part of the domestic curtilage granted by the previous application alongside the car park and outbuilding of Magnolia House a Care Home.

There are no specific designations covering this site; the land as part of the applicant's overall ownership is contained within mature hedges to the south and west with the nearest public footpath approximately 180m distant to the south east in the adjoining field. The site where the building is proposed is just outside the built - up area boundary of the Town which runs along the rear of buildings fronting Lyme Road.

The properties either side of Green Acres back onto its domestic curtilage, some immediately so as in the case of No 6 and No 2 Lyme Road which have windows immediately looking over the area.

Relevant Planning History

Conditional planning permission was granted in 2015 - 15/2682/FUL - for a change of use of land to residential / smallholding to the south west of Green Acres.

Proposed Development

The application is partially retrospective seeking to retain construction already carried out of the start of an outbuilding adjacent to the south west corner of the car park of Magnolia House. The applicant seeks to extend northwards from the existing construction alongside this boundary to the rear of the garden of The Lymes.

The overall building would amount to approximately 140 m² in area, with a maximum height of 4.8m to the ridge of each end and 4.1m across the main section; 5.5m in depth and 25m in length. It is proposed to be constructed of recycled pallets and scaffolding boards, with timber shingles for the roof covering.

The application is not for any change of use or for the operation of a business.

ANALYSIS

The matters to consider in no particular order include the principle and justification for the proposed building; neighbouring amenity; highways and access considerations; use of the building; its scale and appearance; consideration of wider context and landscape; proposal for surface water drainage; other material planning considerations arising.

Additional comments made about other matters raised in correspondence including access for third parties, public rights of way, the construction of a conservatory and decking, non-compliance with conditions relating to previous application 15/2682/FUL; Building Regulations; are covered at the end of the report.

Principle and justification for the proposed building and its proposed use

The applicant has advised that the building is to store goods under cover currently stored outside as well as keep feed and bedding associated with the wider smallholding as well as tools. Items would also include a car and boat kept for domestic purposes as well as machinery to maintain the area. The applicant has advised that no static machinery is proposed to be kept within the building.

Policy within the Local Plan allows development outside of built up area boundaries subject to Strategy 7 (Development in the Countryside) and in this case D1 (Design and Local Distinctiveness) as the building is proposed within the domestic curtilage established on the previous application and to a lesser extent Policy D7 given the proposed storage of bedding and feed associated with the wider smallholding.

The proposal is therefore acceptable in principle.

Materials and appearance

In regard to objections regarding materials, both pallets are natural materials being timber; similarly as would be the timber shingles for the proposed roofing. It is not considered that a building with a timber finish would be inappropriate for an outbuilding in this area on the immediate edge of the built up area of the town alongside Lyme Road. Any building constructed of timber 'weathers over time' in contrast to other materials such as render or painted blockwork.

Neighbouring amenity

In regard to noise impacts to neighbouring properties the applicant has confirmed that no static machinery is proposed within the building. That said a level of activity associated with the uses proposed would be expected in a building serving a domestic property and smallholding.

Given there are no windows proposed on the south east and north east elevations of the building it is not considered that overlooking or a loss of privacy would occur from retention of the part of the building already constructed or sought permission to extend. Likewise in terms of views there is no right to a view specifically but what can be considered is any effect from the position of a building.

Whilst the north east and south east walls of the building are proposed close to the boundaries of land belonging to Magnolia House and the rear garden of the Limes, given the proposed height of the building, and raised levels of adjoining land, it is not considered the effect would significant enough to identify harm of a level to refuse the application.

The longest part of the building would back onto the car park of Magnolia House which itself is at a higher level than the building. So although part of the objection from neighbours is that the building would be harmful to the enjoyment of residents, the amenity area of the Residential Home is located on the other side of the tarmaced area at this point some 12m in distance away and whilst the upper parts of the wall

and roof would be visible it is not considered that harm of a significant overbearing nature would arise.

Highways and access considerations

The application does not propose a change of use of the land only the erection of a building within the curtilage.

The County Highway Authority have acknowledged that the existing access has limited visibility in the South-east bound direction due to the bordering wall and on-street parking, the visibility in the north-west direction is reasonable. However they consider that as the access is existing and no change of use is proposed then they would have no reason to object given trip generation would not increase.

Without an objection from the County Highway Authority suggesting public safety would be harmed it is considered it would somewhat difficult for the LPA to raise an objection on this matter.

In regard to the potential for hardstanding to be constructed, permitted development rights would allow this (though it is not shown on any plans currently submitted) but any area exceeding 5 m² is required to be constructed of porous materials or provision made for drainage on site.

Consideration of wider context and landscape

Whilst the site itself and wider area is not subject to any specific designations for its landscape or ecology, the site can be seen from the public footpath that links the top of Morton Way with Lyme Road; distances vary from 180m at its closest to 450m from Morton Way. The part of the building already constructed is visible in the foreground of the higher two storey buildings behind along Lyme Road including Green Acres Itself and Magnolia Care Home from points along this footpath.

However whilst only part of the building is already in place to assess this matter given the context of higher buildings behind when viewed from public viewpoints (as opposed to from private land or gardens) it is not considered that significant harm to the character of this area immediately behind Lyme Road, nor effect the enjoyment of the public footpath.

Proposal for surface water drainage

The applicant has advised that rainwater would be collected from the roof for use on the site as well as directed into a soakaway. The site is not designated as subject to flooding or within the critical drainage area to the north. However at the time of the officer's visit the ground was wet and poorly drained given the recent wet weather and therefore in the event of any approval this matter could be conditioned appropriately.

Other uses of the building:

The applicant has confirmed that it is not the intention for any vehicles associated with a potential taxi business to be kept on site. That said there would be nothing to prevent

the applicant from doing so, no restrictions being applied from the previous approval and it is doubtful that a change of use would be deemed to have occurred for the keeping of one vehicle associated with a business within a domestic property's curtilage. It only may become an issue if the number of vehicles kept would exceed that reasonable expected, so that a material change of use has occurred. The application is not seeking consent for that.

Other material planning considerations arising

The main benefit of the proposal would be to enable the applicant to store those items currently on the site outside which are clearly visible from neighbouring properties. The site for the building and wider area of land is acknowledged to be untidy and very different from what neighbours were used to seeing from their property. It is clear that this is a significant concern for neighbours and therefore the proposal would enable the site to be tidied up, machinery and tools stored away out of site, and the appearance of the wider area returned.

Other matters

Third Party Access across the land: it is understood Magnolia House have a historic agreement to cross the land belonging to Green Acres from the access at the corner of the Lamb Inn to the rear of the Residential Home. This is considered an entirely civil matter between the applicant and any others party to such an agreement. If the proposed building is on the line of this access that is considered a matter outside of the consideration of this application. Whilst the Ward Member has suggested this should be investigated, with respect it is considered this would be outside of the remit of the LPA.

There is no public footpath according to the Council's records running from the gate at the corner of the public house across the land subject to the application either to the rear of Magnolia House or elsewhere within the domestic curtilage or wider land within the ownership of the applicant. As far as signs hung from the said gate this is not considered a matter for consideration of this application. The visiting officer has spoken with Devon County Rights of Way who has confirmed there is no public right of way and also that whilst this matter has been raised with him previously no application has been submitted to the County Council to establish a public right of way across this field at the time of writing.

Conservatory/Decking: these were constructed within the applicant's curtilage sometime between the granting of the previous permission in April 2015 and 2017. When the Council granted planning permission in 2015 it removed permitted development rights for outbuildings, the report to committee considering this was a reasonable precaution to enable consideration of any proposals to ensure that they maintain the character of this then field at the rear of Lyme Road. It did this by removing the right to erect outbuildings and the like (garages, pools and other curtilage buildings) normally allowed under Class E of the Permitted Development Rights (hence this application).

However as part of that decision the rights for constructing extensions within Class A development (extensions, improvements and other minor works) were not removed;

therefore the decking and conservatory are considered to be permitted development provided they meet the scale and other parameters of the relevant legislation. The Council's enforcement officer has previously investigated these additions and given a view that an application is not necessary to retain them. This is considered still the case notwithstanding that these may have been positioned on the line of the 'access' shown on the plan accompanying the application for change of use as the position and use of this access is considered a civil matter.

Non-compliance with conditions on the previous application: the granting of the change of use included a condition requiring submission of details of a hedge along the southern and western boundaries of the site. There has been no application to the Council at the time of writing to discharge this condition. At the time of the officer's visit for the current application there was no post and galvanised wire fence in the position shown on approved plan; there was however some small trees along a line from the north west hedge but not extending up to the south east corner of the curtilage as likely required. This matter has been referred to the Council's Enforcement Officer for further review but a further condition requiring planting can be added to this application if approved.

Building Regulations: it is established in case law that a planning application should not be considered on the basis of whether a building would or would not meet the relevant Building Regulations - in this case Class A. As the building exceeds 30 m2 it is likely to require a Building Regulations application. However in the event of approval of any planning application by the LPA an applicant is advised to seek clarification from the Council's Building Control Department.

Additionally potential damage to neighbouring property during any construction is also considered to be a civil matter.

In regard to the comments of the Ward Member advising that the applicant did not approach the Council for advice, an applicant is not legally compelled to do so before making an application; additionally the Council does not operate a pre-application advice service for householder development.

CONCLUSION

Whilst the concerns and comments from the Ward Members, Town Council and local residents are appreciated and understood, the application is seeking consent for an outbuilding to a garden area associated with a dwelling.

The proposed building, whilst large, would help to tidy up the appearance of the site and is not considered to have an impact upon the amenity of surrounding residents to an extent that could justify refusal of planning permission. In addition, the visual impact from the building is considered to be acceptable, being viewed against the backdrop of existing buildings. The proposal will also help to tidy up the appearance of the site.

Given the above assessment the application is recommended for approval; to retain the existing construction and allow the extension to it as shown on the submitted plans conditional on provision of surface water drainage from the building, restriction in terms of use and additional boundary planting.

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. Provision shall be made for collection of surface water from the building with drainage to a soakaway on site so that none enters the public highway.
(Reason - in the interests of highway safety in accordance with Policy TC9 (Adequacy of Road Network and Site Access) and Policy EN22 (Surface run off implications of new development) of the East Devon Local Plan 2-13-2031).
4. The building hereby permitted shall be used only in conjunction with, and ancillary to, the use of Green Acres as a single dwelling house and the building shall not be used as a separate dwelling or for any commercial, industrial or business purpose.
(Reason - The building is unsuitable for independent residential occupation due to its relationship with adjacent dwellings and a commercial use has not been applied for or considered and could cause undue noise to adjoining occupiers in accordance with the requirements of Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
5. Prior to the first use of the building hereby approved, a landscaping scheme to screen the building from view from the south shall have been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be carried out in the first planting season after approval of the details unless otherwise agreed in writing by the Local Planning Authority and 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 New East Devon Local Plan 2016.)

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 works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

Plans relating to this application:

| | | |
|--------------|-------------------------|----------|
| 02 | Block Plan | 07.09.20 |
| 101 rev A0 | Proposed Combined Plans | 27.10.20 |
| | Location Plan | 27.10.20 |
| 102 rev A0.1 | Proposed Elevation | 11.12.20 |

List of Background Papers

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

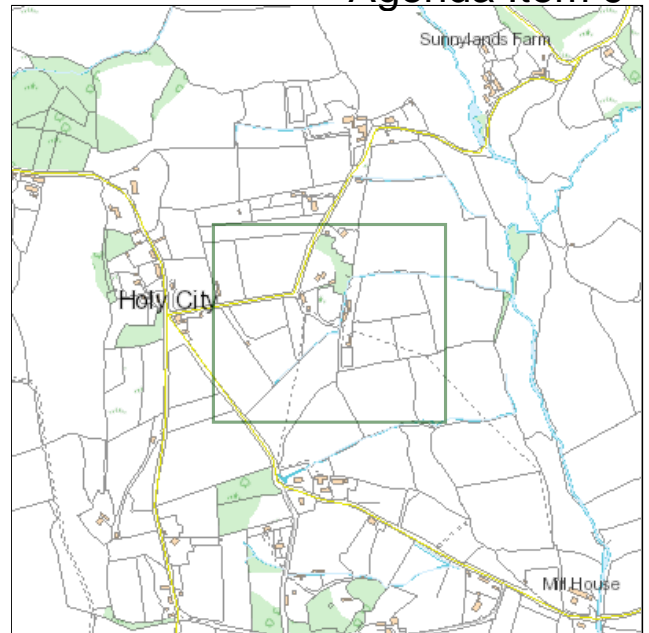
Ward Yarty

Reference 20/2133/FUL

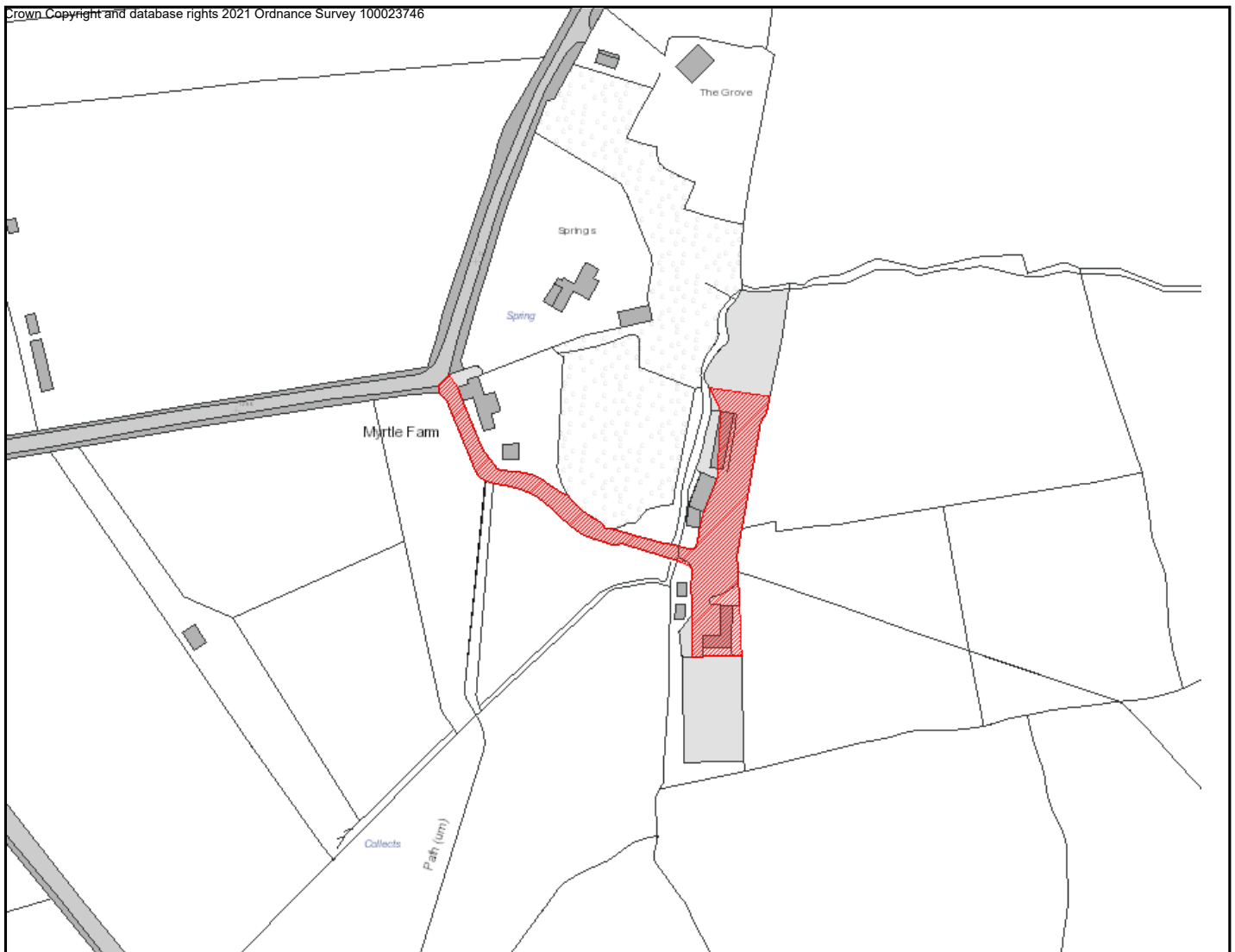
Applicant Mrs Carinna Parsons

Location Myrtle Farm Chardstock Axminster EX13 7DD

Proposal Replacement farm buildings.



RECOMMENDATION: Refusal



| | | |
|-------------------------------|------------------------------------|---|
| | | Committee Date: 17th March 2021 |
| Yarty (Chardstock) | 20/2133/FUL | Target Date: 25.01.2021 |
| Applicant: | Mrs Carinna Parsons | |
| Location: | Myrtle Farm Chardstock | |
| Proposal: | Replacement farm buildings. | |

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

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

The application relates to a collection of timber buildings arranged in a line along the west and southern sides of a yard area situated on the lower slopes of an east facing rise. The buildings are associated with Myrtle Farm that lies to the west of the site. The site lies in open countryside forming part of the Blackdown Hills Area of Outstanding Natural Beauty.

Permission is sought to replace 2 no. equestrian style buildings with 2 no. modern purpose built timber barns. The applicant states that there is the ability to farm 60+ ewes on the land (which extends to over 10 acres) and that the buildings are required to provide suitable accommodation for lambing and for other general agricultural storage. It is further advised that the existing buildings to be removed are no longer fit for purpose and are unsuitable for livestock housing. It is suggested that the lack of suitable buildings has resulted in livestock losses in the past.

In general there is support for agricultural development subject to demonstration of genuine need and the impacts of such development being found to be acceptable in all other respects. In this case there is a lack of supporting evidence relating to the agricultural activity on the land, any agricultural business operating from it or existing stock levels. Furthermore, there is no business plan provided or other clear indication of intention to increase stock levels, or to demonstrate why the size and number of buildings proposed are needed in relation to existing/proposed agricultural activity. As such, it is not considered that an agricultural need has been demonstrated.

Whilst it is recognised that the proposal would remove existing buildings from the site, which themselves have some landscape and visual impact, these are of a smaller scale and sited so as to be less prominent in public views from the east.

On balance, whilst it may be reasonable to permit some form of replacement buildings for those currently on site, the development proposed would result in increased landscape and visual impact within the AONB landscape and where it has not been demonstrated that such harm would be offset by other benefits. This being the case the application is recommended for refusal.

CONSULTATIONS

Local Consultations

Yarty - Cllr Paul Hayward

26/01/21 - Having considered the additional information provided by the applicant, and the further comments of the Parish Council and those from neighbours, my position remains unchanged ie. in support of the application but with a request that some conditions be applied:

That the materials used be specifically designed to minimise the appearance of the proposed agricultural buildings against the skyline/landscape.

That a landscaping condition be applied to ensure the planting (and maintenance) of adequate screening to the SE elevation to mitigate the visual impact of the buildings when viewed from below in the valley and wider Chardstock Community. The choice of trees to be used to be discussed and approved in consultation with EDDC Arboriculturalist.

That a condition be applied to commercial forestry and logging activities on site limited these to working hours, Monday to Friday, excluding Bank Holidays.

I believe that a collaborative approach between the applicant, the Parish Council and their neighbours will allow this farm to continue to operate as a viable agricultural business, to thrive and grow thus promoting the rural economy which is very important to Chardstock Parish and to offer protection to this prominent rural location, within the AONB.

04/01/21 - I am supportive of this application in principle as the proposed replacement buildings will enable some diversification on this agricultural holding in the AONB and prevent the farm falling into disuse. I do share some of the Parish Council's concerns regarding the sparsity of the plans submitted and would welcome the submission of better technical and professionally prepared plans to show the size, scale and position of the proposed buildings in relation to the site. I understand that a new supporting statement has been submitted which provides the economic justification for the replacement barns. Additionally, I would ask that conditions be applied to make the new buildings blend into the landscape given the prominence of the site on a ridgeline and also the creation of new planting to help shield the site from the valley below, and to provide some noise mitigation from the activities on site. I hope that the proposals

allow the applicant to provide better and safer facilities for the livestock on site (and those they wish to keep) and helps improve the viability of the overall business model.

Parish/Town Council

26/01/21 - The Parish Council met recently for an extraordinary session to consider the additional information provided by the applicant (having already met on the 13th January to reconsider the amended plans and submissions. After lengthy discussion, the Council voted unanimously to maintain its objection to the proposals on the following grounds:

That the proposed size and scale of the development was not justified by the agricultural activity proposed within them.

That the proposed size and scale of the barns would be detrimental to the AONB landscape and out of keeping with the existing buildings.

That the activity proposed onsite (should the application be approved) was not conducive to the quiet rural amenity of the parish and would adversely affect the enjoyment of the landscape and area by parishioners.

That the applicant had not clearly demonstrated their intention to provide adequate screening of the proposed structures by way of landscaping and planting.

The Parish Council would encourage the applicant to submit a revised plan for buildings of smaller scale, and footprint, and to provide clearer intentions for landscaping / planting to mitigate the visual impact of the barns on the rural landscape.

18/12/20 - At the Parish Council meeting held 16th December 2020, the Council resolved unanimously to NOT support this application on the following grounds:

-That the proposed buildings will not - by way of their scale, design and size - be in accordance with Policy D7 of the adopted EDDC Local Plan.

-That the proposed buildings would contravene the Chardstock Parish Neighbourhood Plan, policies CPNP03d) and CPNP 04a).

-That the plans presented for consideration were of a poor standard and did not adequately demonstrate or identify the size, scale and design of the proposed dwellings.

-That the structures proposed were not replacements for the existing buildings onsite but moreover alternatives to those currently in place.

-That the absence of the following reports/plans made proper consideration of the proposals impossible, when taking into account the impact of the proposals on the AONB landscape and immediate habitat;

Ecology Report

Landscaping Proposal Report

Drainage and surface water management Plan

Council further directed its Clerk to make additional enquiries as to the planning consents onsite in relation to existing building B, and to seek clarity on the veracity of applicants assertion that activities onsite were agricultural and not simply commercial or of an industrial / manufacturing nature.

Other Representations

6 no. representations have been received in relation to the application 5 of which offer support of the proposal and one of which raises objections. The reasons for support/objection are summarised below:

Reasons for support

- Current buildings need replacement
- Replacement buildings will enhance the site and improve conditions for livestock
- The existing buildings are in need of replacement
- The buildings are required for appropriate animal welfare

Objections

- The applicants carry out log processing from an existing building on the site which causes intrusive noise impacts
- The proposed demolition of the stable building and removal of earth bank will remove a sound buffer and increase the noise impacts of the log processing operation
- The replacement buildings are considerably larger/taller than existing buildings and therefore the proposal does not constitute replacement buildings.
- Concerns that the new building will be used for log processing and would result in increased noise and traffic movements affecting amenity

Technical Consultations

Environmental Health

I have considered the application 20/2133/FUL and do not anticipate any environmental health concerns

DC Footpath Officer

We do not wish to object to this planning proposal but we would like to make the applicant aware that they may need to apply for a closure of the footpath while the work takes place, they can apply for this by contacting the public rights of way - mailbox by emailing, publicrightsofway-mailbox@devon.gov.uk

Also we would like to remind the applicant that if the surface of the footpath is damaged in any way during the work then it must be reinstated to the same condition.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies
Strategy 3 (Sustainable Development)

Strategy 7 (Development in the Countryside)

Strategy 5 (Environment)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

EN14 (Control of Pollution)

D1 (Design and Local Distinctiveness)

D7 (Agricultural Buildings and Development)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

Chardstock Neighbourhood Plan (Made)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

Site Location and Description

The application relates to a collection of timber outbuildings arranged across a narrow yard area oriented north to south. Myrtle Farm (house) itself is located to the west at the junction of the local road and the private access road which serves the yard. There are other residential properties to the north and northwest of the site with land to the northeast, south and southwest being agricultural in character and comprising of small scale fields generally separated by native hedgerow. The surrounding topography slopes down from west to east.

The site lies in open countryside approximately 2/3 of a mile northwest of the village of Cardstock. The surrounding landscape is designated as part of the Blackdown Hills Area of Outstanding Natural Beauty.

Proposal

Permission is sought for the erection of 2 no. timber buildings on a site where existing buildings are proposed to be removed.

The existing buildings on site proposed for removal have a combined floor area of approx. 230 sq.m with the combined floor area of the replacement buildings being 340 sq.m

Planning History

It is understood that the application site has in the past operated as a riding school granted permission under 81/P0902 and the existing buildings on site appear to be designed for equestrian purposes. However, it is not clear whether the current buildings on site were granted under that permission or not, although those which are

proposed for replacement are equestrian in character. Nevertheless, the riding school is no longer in operation and it appears that the site has defaulted to agricultural use.

ANALYSIS

The main issues in the determination of the application area as follows:

- Principle and policy compliance
- Impact on the character and appearance of the area/wider landscape
- Arboricultural Impact
- Amenity Impact
- Other Issues

Principle and policy compliance

The site lies in the open countryside where Strategy 7 of the East Devon Local Plan (EDLP) only supports development where this is explicitly supported by another policy of the Local Plan, or Neighbourhood Plan where one is in place.

In this instance the Chardstock Neighbourhood Plan (CNP) is made and thus forms part of the development plan for decision making purposes.

In terms of the EDLP the most relevant policy relating to the principle of the proposed development is policy D7 which relates to agricultural development and offers support for such proposals subject to there being a genuine agricultural need and a number of listed criteria being met. In terms of the neighbourhood plan, the CNP does not contain any specific policies that would offer explicit support for the development.

In relation to need, it is acknowledged that the existing buildings on the site are past their best and in need of attention, or replacement. These buildings are also not designed for agricultural use, and appear to have been erected originally for purposes relating to a former equestrian use of the site. The proposal is to replace these buildings with 2 no. purpose built agricultural barns. The replacement barns are of rectangular plan form and have an increased eaves and ridge height making them easier to access for a variety of purposes.

The application was not originally supported by any information relating to the need for the buildings and as such additional information was requested. In response the applicant has advised that the existing buildings are subject to movement due to the unstable nature of the concrete pads on which they are constructed. They go on to advise that they operate a '10+acre farm' and 'have the ability to farm 60+ ewes'. They go on to state that over the past 7 years they have been building up a flock of purebred ewes and lambs and that the current buildings are unsuitable for this purpose. It is suggested that stock has been lost in the past due to inadequate airflow within the building. It is further suggested that the buildings would be used to, '*... house the livestock (including two children's ponies) hay and feed cultivated from the holding and farm machinery.*'

In relation to need it is considered that the evidence presented in terms of the agricultural operations of the holding are limited and appear to include an element of

stabling, Whilst the applicant refers to the ability to farm 60+ ewes there is no information on current stocking levels or any other agricultural operations at the site and the specific storage requirements relating to these. Furthermore, there is no information in the form of a farm business plan or similar setting out projections for increasing stock numbers. As a result there is an absence of information to demonstrate a genuine agricultural need for the buildings in question. This conclusion takes into account the increase in overall footprint between existing and proposed buildings but also the presence of an additional existing open-fronted barn on the site which also appears to be available for agricultural use.

In relation to the other criteria of policy D7 the design and landscape impact and amenity, impacts are considered separately below. With regards to traffic there is no reason to consider the proposal, if restricted to agricultural use, would have any greater impact than the current use of the site and it would be possible to ensure that clean roof water was kept separated from any foul/dirty water drainage. Other than those at the site there appear to be no other buildings on the holding.

In terms of national planning policy para. 83 of the NPPF encourages planning policies and decision to, “... *enable the sustainable growth and expansion of all types of business in rural areas, both through the conversion of existing buildings and well-designed new buildings*”. Whilst this support is recognised it relates to business proposals and there has been no evidence submitted to justify the size and number of buildings proposed to support either a new or existing agricultural business.

Impact on the character and appearance of the area/wider landscape

The site sits on a platform of land that has been cut into the natural slope which falls from west to east. A public footpath (Chardstock footpath No.27) climbs up toward the site from the southeast before following the line of the access road to the west. Due to the lack of vegetation screening the existing buildings are likely to be visible on approach from the east, as well as in more distant views from the public footpath and road on the opposite side of the valley to the east. The impact of the existing buildings in such views is likely to be limited due to the scale and design of the buildings and their weathered appearance. They are also seen in conjunction with rising land to the rear and in context with other built form.

Policy CPNP 04 of the Neighbourhood Plan together with Strategies 7 and 46 of the Local Plan seek to ensure that development does not harm the distinctive landscape qualities of the locality and in the case of AONB landscapes conserves or enhances their natural beauty.

The proposed replacement buildings would be slightly larger overall in massing and height and would also in the case of the northernmost building be brought closer to the platform edge. The existing northern building is set back in the site and partially under the canopy of trees to the rear of it, as such the new position would result in this building being more prominent than the one it replaces. The proposed removal of some of the existing trees to the west of the site whilst unrelated to the application would also expose the site further. It is recognised that the scheme includes proposals to establish a new hedge along the eastern side of the northern part of the site and, that once established, this would assist in providing some screening of the building.

The proposed materials would also assist in reducing the impact of the development. However, it remains the case that the construction of 2 no. new buildings on this site would result in some increased landscape and visual impact. Whilst this impact would reduce over time as planting establishes there would still be some increased impact particularly in the short term.

Arboricultural Impact

The application is accompanied by an arboricultural report which considers the impact on trees on or adjoining the site from the development. The conclusion drawn is that the proposals themselves would not be likely to have impact on any important trees although, irrespective of the application there would be a requirement to remove a number of adjoining trees due to the effects of Dutch Elm disease. The report makes suggestions for replacement planting to offset the loss of trees and these and the protection of existing retained trees during the construction phase of development could be conditioned if the development was otherwise found to be acceptable. Subject to development proceeding in accordance with the recommendations set out in the report and suitable replacement planting being provided the proposal could be considered to meet the requirements of policy D3 of the Local Plan.

Amenity Impact

Policy EN14 of the Local Plan seeks to resist development that would lead to unacceptable levels of polluting impacts on local residents or the wider environment. The proposed uses of the building for livestock housing has the potential to give rise to amenity impacts including from odour, flies etc. However, the stated purpose of the building is to house ewes, presumably when lambing as well as for other more general agricultural storage purposes. As such the building would not be in continuous use for livestock purposes and is not considered to give rise to any harmful levels of amenity impact. The environmental health officer has raised no objection to the scheme.

Other Issues

A neighbouring resident has raised complaints about noise resulting from existing activity at the site relating to log processing that takes place. The parish council has also questioned the lawfulness of the existing use of the site and whether this is a commercial activity unrelated to the agricultural use of the land. The neighbour has expressed concerns that the machinery operated and general activity in association with this business is detrimental to their amenity. These concerns are noted and whilst the processing of logs derived from the land is likely to be considered to be ancillary to the agricultural use of the land any commercial activity that goes beyond this would be likely to constitute a change of use for which planning permission would be required. This issue is the subject of separate enforcement investigation and is considered to be unrelated to the current application which is to be considered on its own merits.

CONCLUSION

The proposal would provide two new buildings to replace existing equestrian style buildings on site and which the applicant has suggested are no longer fit for purpose or suitable in association with the agricultural use of the site.

At the present time there appears to be little active agricultural use of the buildings but it is appreciated that may be as a result of their unsuitability for the storage and livestock purposes referenced by the applicant. It has been suggested that the applicant has the ability to farm more than 60 ewes on the land and that the buildings are required for lambing purposes as well as general storage, however reference is also made to housing ponies.

The application is not supported by any information relating to existing livestock levels, or hay, machinery or other storage requirements associated with the holding or to proposals to how and when it is propose to increase stock levels. This being the case it is not possible to conclude that the proposed buildings have been designed to meet a genuine agricultural need. In the absence of such justification the harm to the character and appearance of the area and designated landscape, whilst limited, weighs against the proposal and on balance it is considered that the harm that would arise through the replacement of the existing buildings with large and overall more prominent replacements is not outweighed by any agricultural justification.

RECOMMENDATION

REFUSE for the following reasons:

1. The development is not supported by sufficient justification of agricultural need for 2 no. buildings of the scale proposed and related to the agricultural activity taking place or proposed. In the absence of any explicit justification the proposal represents development that would; cause harm to character and appearance of the area and would fail to conserve or enhance the landscape character of the area, designated as Area of Outstanding Natural Beauty. The development as a result is contrary to Strategies 7 (Development in the Countryside) and 46 (Landscape Conservation and Enhancement and AONBs) and policies D1 (Design and Local Distinctiveness) and D7 (Agricultural Buildings and Development) of the Adopted East Devon Local Plan 2013-2031 as well as policies CPNP04 of the Chardstock Parish Neighbourhood 2013-2031 and National Planning Policy contained in the National Planning Policy Framework.

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:

| | | |
|-------|----------------------------|----------|
| | Proposed Site Plan | 30.11.20 |
| P-100 | Combined Plans | 12.01.21 |
| P-200 | Combined Plans | 12.01.21 |
| P-202 | Existing Elevation | 12.01.21 |
| P-203 | Proposed Combined Plans | 12.01.21 |
| P-201 | Combined Plans | 12.01.21 |

List of Background Papers

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

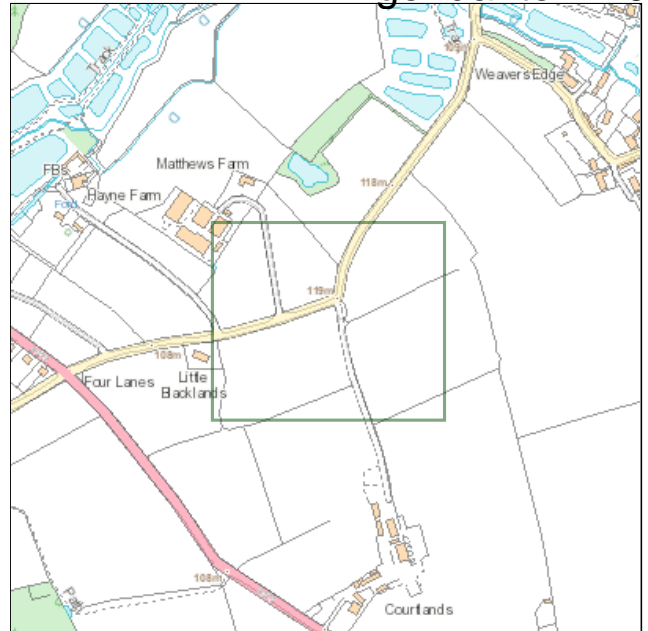
Ward Tale Vale

Reference 20/1801/FUL

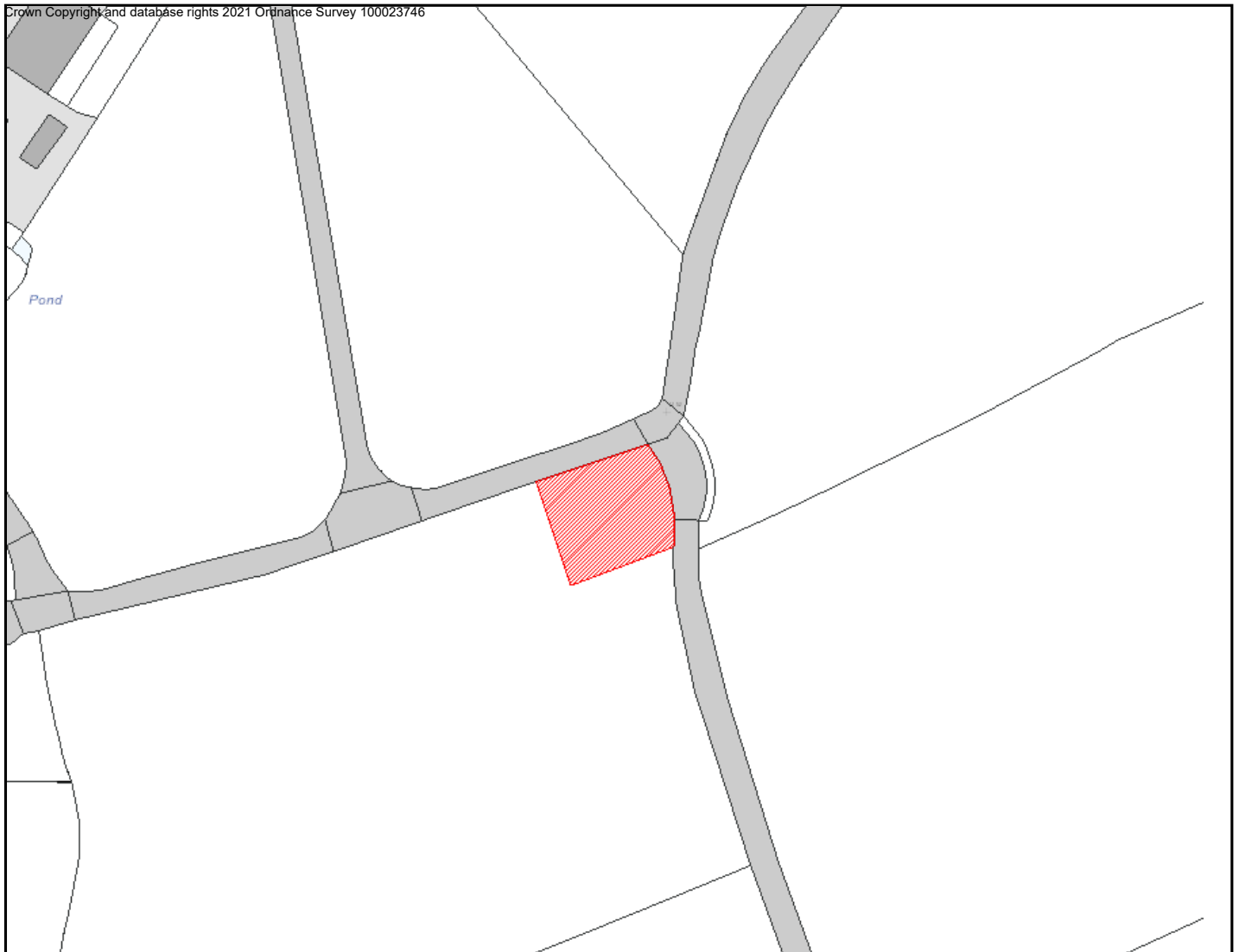
Applicant Mrs A Golding

Location Edenvale Turf Courtlands Dulford Cullompton
EX15 2EQ

Proposal Proposed replacement dwelling.



RECOMMENDATION: Refusal



| | | |
|-------------------------------------|---------------------------------------|---|
| | | Committee Date: 17th March 2021 |
| Tale Vale (Broadhembury) | 20/1801/FUL | Target Date: 19.10.2020 |
| Applicant: | Mrs A Golding | |
| Location: | Edenvale Turf Courtlands | |
| Proposal: | Proposed replacement dwelling. | |

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is brought before Committee as the officer recommendation is contrary to the view of the ward member.

The proposal involves the construction of a two storey three bedroom dwelling within a corner of an open field that forms part of the holding at the Edenvale Turf farm - operated by the applicant's family - at Courtlands, Dulford.

The intended site for the dwelling is around 250-350 metres to the north of the main complex of farm buildings at Courtlands immediately adjacent to the commercial entrance to the farm.

The dwelling is not being expressly proposed as a rural worker's dwelling under the provisions of paragraph 79 of the National Planning Policy Framework or Policy H4 of the adopted Local Plan, although, should Members be minded to view the proposal favourably, the applicant would be willing to accept an agricultural occupancy restriction being placed upon the accommodation by condition.

The development is being justified more strongly on the basis of it amounting to a replacement dwelling (and therefore to be considered having regard to the provisions of Local Plan Policy H6) for one of three approved (but yet to be commenced) residential conversions of farm buildings at Courtlands granted prior approval, under the relevant provisions of the Town and Country Planning (General Permitted Development) Order, in July 2019 (under ref. 19/0267/PDQ). This approval remains extant until July 2022.

As such, and in order to ensure that part of this approval could not be implemented in addition to the construction of the proposed dwelling, were it to be approved, thereby resulting in a net addition of one dwelling in the open countryside, the applicant has offered a draft unilateral undertaking (under

section 106 of the Town and Country Planning Act) setting out obligations to forego the approved conversion in place of this proposal.

The acceptance of the fundamental principle of substituting the conversion for a new build dwelling has been accepted in case law (Mansell) and the applicant draws upon this in support of the principle of the development.

However, it is considered that the proposal fails to meet the criteria set out in Policy H6 insofar as it would not be located on or adjacent to the footprint of the 'existing' dwelling, or elsewhere within the curtilage of the building where a clear planning or environmental benefit would be achieved and, more critically, would be positioned where it would appear unduly visually prominent in the surrounding landscape and detract from its character and appearance.

Whilst not being actively promoted on the basis of a rural worker's dwelling, the application seeks to justify the proposed siting on the basis of the security that it would provide for the farm at its 'business' entrance and the opportunity that it would facilitate for the provision of a 'succession' dwelling for the applicant to enable her to progress the management of the farm that she has begun during the past year.

It is therefore thought that engaging the Policy H4 criteria is unavoidable. Indeed, the preamble in the Local Plan is clear in stating that succession housing on farms should meet these criteria.

However, the plan is also clear in stating that security concerns will not, on their own, be sufficient to justify a new dwelling. As such, and in the absence of any other evidence that the development would meet a proven and essential functional need for a further dwelling on the farm, it is not considered that they can be given significant weight to offset the identified harm to the countryside that would arise as a result of the development.

Indeed, in any event, even if there were acceptance of an essential need for a dwelling on the farm more generally, one of the other key criteria set out in Policy H4 requires that no other buildings suitable for conversion to meet it are available. In this case, not only are buildings available for conversion but approval is in place for their conversion.

Drawing these various matters together, it is considered that the proposal represents the introduction of a dwelling within a visually prominent location in the open countryside that would, in the absence of sufficient justification, result in material harm to the character and appearance of the landscape. As such, it would be contrary to the provisions of Strategies 7 and 46 and Policies D1, H4 and H6 of the Local Plan and guidance set out in the National Planning Policy Framework that seeks to protect the open countryside and is recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council
Support

Tale Vale - Cllr Philip Skinner

My primary position is dealing with people and business.

I think I would be correct in saying that we have policy in place to support agricultural succession rights regarding such applications and indeed if ever there was a time for policy to over-arch the bigger picture with family succession then here it is.....real and live here today.

Alice Golding is the daughter of Steve and Melanie Light whom own this turf business which started from nothing to one of the most successful turf businesses in our region supplying from large scale developers to the man in the street who want to turf out their back garden.

One of the main drivers for many businesses is knowing your children are keen and following in your footsteps and Alice is achieving this with an aplomb.

I know this family and this area very well, being the ward member here for over 21 years and it is issues and circumstances such as these that are as important as our policies, that, quite rightly are there to protect the countryside from the wrong type of development or even 'the quick buck brigade' which I would want our policies to protect.

Our job as ward members is to understand that and balance that against a back drop of the right development in the right place for the right reasons and how I see it, is us as elected members to engage in the process to draw out the proper developments in the right place at the right time.

Can we really expect our policies to always get the correct outcomes....of course not, that's our job to fight for them for the right reasons.

I hope our officers will give a balanced view and remember that there is quite a bit to be gained from this proposal being supported.

- 1/ A farming succession practice allowing this young family to stay on the farm unit.
- 2/ A sustainable development, what I mean by that is the applicant can walk to work....no need for any public highway usage for work purposes. (Carbon Neutral)
- 3/ Security. The machinery and equipment is of high value and the very existence of a dwelling at this point of entry would surely deter any unwelcome visitors.
- 4/ The removal of a pdq unit for a dwelling in a more suitable location.
- 5/ My final and really biggest point that is not lost on me, is the family unit all staying together and looking out for one another as the years drift by....this fundamental underlying point cannot be put in to any policy but it mustn't go unrecognised in how development planning is so much more than 'just a house' particularly with our

dependence on the NHS when families can look after each other.....this can't be achieved by all, that I recognise, but it can be

That said, I think it is clear that this application has my full SUPPORT as ward member and were the officers report differ from my view I would ask that it goes to the planning committee for decision.

Technical Consultations

None.

Other Representations

No representations have been received from any interested third parties.

PLANNING HISTORY

| Reference | Description | Decision | Date |
|-------------|---|--------------------------------------|------------|
| 19/0967/PDQ | Prior approval for proposed change of use of 3no. agricultural buildings each to form 1 no. dwelling (use class C3) and associated operational development. | PDQB Prior Approval granted | 26.07.2019 |

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

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

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN5 (Wildlife Habitats and Features)

EN14 (Control of Pollution)

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

EN22 (Surface Run-Off Implications of New Development)

H4 (Dwellings for Persons Employed in Rural Businesses)

H6 (Replacement of Existing Dwellings in the Countryside)

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)

Site Location and Description

Courtlands is a residential property that, together with an adjacent complex of farm buildings, forms the base for Edenvale Turf, a long established farming business, now principally involved with the growing and selling of turf and the provision of landscaping services, that has been run by the applicant's family since the 1950s.

The complex is located off the A373 approximately 750 metres to the south east of Dulford and is served by two access driveways. One, directly off the A373, principally serves the main dwelling while a second 'business' entrance to the north of the complex is off a Class C lane that extends eastward from the A373 at Four Lanes Cross and leads to Kerswell. The entrance to this driveway is positioned on the corner of a sharp, almost right-angled bend in the road carriageway. A public footpath (no. 13) leading to Kerswell extends to the east of the site.

The application site itself comprises a portion of land of an area of approximately 0.06 hectares in area within the north eastern corner of a field to the south west of the junction of the driveway with the highway; i.e. adjacent to the 'business' entrance. It is located around 260 metres to the north of the nearest building within the farm complex and approximately 380 metres north of the main farm dwelling (Courtlands).

Neither the site nor the surrounding area are the subject of any landscape designations or other material constraints. The nearest part of the boundary of the Blackdown Hills Area of Outstanding Natural Beauty is around 1.3 km. to the east.

Prior approval was granted in July 2019 (ref. 19/0967/PDQ) for the change of use, and associated operational development, of three of the agricultural buildings that sit within the main farm complex to form three residential dwellings under the provisions of Class Q of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order (GPDO). This approval will remain extant until July 2022.

Proposed Development

The application proposal relates to the construction of a three bedroom dwelling with attached single garage on the site together with the laying out of a driveway/parking area accessed off the farm road just inside the entrance off the highway.

The submitted details show, to all intents and purposes, a two storey built form with the addition of a projecting single storey element - intended to house a living/dining room - on its rear (south west) elevation and the single storey garage element attached to its north west side. However, part of the proposed first floor accommodation would be housed within the roof space with the design incorporating windows at that level, in both the principal (north east) and rear elevations, breaking the eaves line. A bathroom and en suite would be served by roof lights with the remaining rooms and a landing provided with conventional windows. Further roof lights would be incorporated within the single storey rear element.

The design exhibits a largely traditional pitched roof form with side gables to the main two storey core with a similar treatment for the attached garage. The single storey rear addition is, however, shown with an asymmetric pitched roof.

The intended elevation treatment of the building shows a relatively contemporary approach involving a number of large windows to the principal rooms, including the living/dining room. This is reflected to some degree by the selection of standing seam metal roof sheeting throughout while the external wall finishes would predominantly comprise painted render with brick facing at ground floor level to much of the principal elevation and the exposed sections of the north west elevation as well as the rear and north western side elevations of the living/dining room element.

The dwelling is intended for occupation by the applicant, who is employed at the farm.

Although not expressly proposed as a dwelling for a rural worker under the provisions of paragraph 79(a) of the National Planning Policy Framework (which allows for such development as one of the stated exceptions to the general policies of avoidance of isolated homes in the countryside) or Policy H4 of the adopted Local Plan, it has been advised that, should Members be minded to accept the proposal subject to an agricultural occupancy restriction, there would be no objection.

The background to the proposal, including the justification for the absence of explicit promotion of the scheme as a 'tied' rural worker's dwelling, is set out in greater detail in the following sections of the report as an integral part of the assessment of its merits.

ANALYSIS

The main issues for consideration relate to the principle of development and its visual impact.

Principle of Development

There are a number of aspects of the principle of development that require detailed consideration in this case. The following narrative is therefore separated into sub-sections to help with an understanding of these and how they inter-relate with each other before providing a summary, having regard to the overall planning balance.

The site is located within the countryside where, ordinarily, the introduction of new build residential development would generally be resisted as being contrary to Strategy 7 (Development in the Countryside) of the adopted Local Plan insofar as it would not meet the requirements of any specific plan policy that permits such proposals.

However, in common with a number of proposals for such development that have been considered by the Authority over the past few years, the applicant is seeking to draw upon case law in support of the scheme, with particular regard to the principle of replacing a building eligible under the permitted development rights available, through the relevant provisions of the GPDO referenced above, for the residential conversion of agricultural buildings.

This matter was central to the case of *Mansell v. Tonbridge and Malling Borough Council* that was considered in September 2017 at the Court of Appeal and the wider issue as to the circumstances in which a 'fallback' development may be a material planning consideration for an alternative development scheme, such as a replacement building.

In the 'Mansell' case, planning permission was originally sought for the demolition of an existing agricultural barn and bungalow and the construction of four detached dwellings on a site in Kent. In recommending the L.P.A.'s planning committee to grant permission, the planning officer highlighted a realistic fallback position whereby the landowner could alternatively seek to develop the site by converting the 600 square metre barn into three dwellings using Class Q permitted development rights (subject to compliance with the limitation of 450 square metres set out within the class) and replacing the bungalow with a modern dwelling in accordance with the Council's relevant local plan policies.

The officer considered that the outcome of a scheme under Class Q would be a contrived development whereas the submitted scheme, to which the submitted planning applications related, offered a "more comprehensive and coherent development of the site". As such, and despite the location of the site in "open countryside" and outside of any settlement development boundary, the officer recommended approval.

Among the grounds of judicial review, made by an objector to the proposed development, were that the officer's view in considering the 'fallback' position was not realistic because there was evidence that the site owner would not have sought to convert the barn as it would have been uneconomic to do so. The fallback position was only therefore a theoretical scenario that the planning committee should not have taken into account as a material consideration.

However, the Court accepted that the council was entitled to conclude that there was a realistic fallback position. The evidence had established that there had been prior discussion between the council and the consultant acting for the site owners. It was therefore clear that the owners had firm intentions to redevelop the site. Indeed, alternative proposals had been advanced seeking the council's pre-application views.

It was therefore, in the judge's view, wholly unrealistic to imagine that were all such proposals turned down the owner of the site would not take advantage of Class Q permitted development rights to the fullest extent possible. It was not a precondition to the Council's consideration of the fallback option that the owner had made an application indicating an intention to take advantage of Class Q rights and there was no requirement that there be a formulated proposal to that effect. The officer was entitled to have regard to the planning history which was within his knowledge and the obvious preference of the owners to maximise the site value.

He therefore found that it was appropriate and necessary for the council to take the site owner's clear and firm intentions to redevelop the site into consideration when assessing the application and therefore the planning officer's recommendation to his members was sound.

In the Mansell case there had been no formal proposals submitted for the redevelopment. Conversely, in the case to which this report relates it is stated that there is a clear fallback position in the form of the prior approval granted in 2019 for both the change of use of three buildings on the farm to create three dwellings and the associated operational development. These three dwelling are not subject to any occupancy restrictions.

However, unlike the great majority of - if not all - similar proposals that have been considered by the Council previously in relation to other sites where an extant prior approval has been in place, it is not intended in this case that the proposed 'replacement' dwelling would be constructed on, or even adjacent to, the footprint of the relevant building with prior approval for conversion. As alluded to above, it would occupy a site some distance from the main farm complex where the three agricultural buildings with prior approval for conversion are located.

The potential therefore exists for the approved conversions to be implemented in line with the extant prior approval under Class Q as well as the dwelling to which this current application relates being constructed, if approved. Such a situation would result in the net addition of one dwelling; this being a new build unrestricted open market residential unit within the open countryside which would, ordinarily, be contrary to the established policies of restraint upon such development.

However, in acknowledgment of this possible scenario, the applicant has offered to enter into obligations, by way of a unilateral undertaking, to effectively 'swap' the extant prior approval in part, insofar as it relates to the conversion of one of the buildings, for the grant of permission for the proposed dwelling.

It is therefore contended that the latter would constitute a 'replacement' dwelling for one of the approved 'Class Q' units. It is on this basis that the proposal has been submitted.

The undertaking would also surrender any rights to seek prior approval under Class Q, or equivalent provisions, for the conversion of the building in question, using permitted development rights, in perpetuity.

Such a mechanism would therefore ensure that there would be no overall net addition to the number of residential units at the farm.

Indeed, to this end, a draft of such an undertaking has been provided. However, having been scrutinised by the Council's Legal team, there are a number of outstanding issues concerning the detail of its provisions that may need to be resolved in the event that Members decide to grant permission for the proposed dwelling.

However, in the light of issues of concern to officers regarding the intended siting of the proposed dwelling further to assessment of the proposal against the provisions of Local Plan Policy H6 (which consider the replacement of dwellings in the countryside and are discussed in the next section of the report), as well as the justification offered in response to these, enquiries were made of the applicant as to whether she would accept an occupancy restriction being placed upon the proposed dwelling, in the event of it being permitted.

The effect of this would be to bring a further range of factors, namely the criteria set out in Policy H4, which consider rural workers dwellings, into the balance of material considerations.

In response, there has been, until recently, an unwillingness to accept such a restriction on the development on the basis of the argument that, since the proposal would amount to the provision of a 'replacement' dwelling for one of the approved 'Class Q' dwellings that did not have the encumbrance of any occupancy restriction, it would be inequitable for it to have one imposed upon it.

However, it has now been confirmed that, should the Committee be minded to approve the proposal, there would be an acceptance of an occupancy restriction condition being attached to the grant of planning permission.

It is emphasised though that it is not being actively proposed as a rural workers dwelling under Policy H4.

The foregoing sections of the report therefore consider the proposal against the provisions of both Policies H6 and H4.

Policy H6

Policy H6 allows for the replacement of 'existing dwellings' within the countryside subject to four criteria being satisfied in full. These are set out, and the proposal considered against each in turn, as follows:

There is an existing, permanent, habitable dwelling located on the site, which is not a dwelling specifically granted planning permission under the agricultural or forestry exceptions policy

Although the proposed development would not involve the replacement of an existing dwelling as such, having regard to the principles established in the Mansell case set out above it is accepted that the fallback position of the Class Q prior approval means that, as a matter of broad principle, this criterion would be satisfied.

The dwelling to be replaced is not of architectural importance (whether Listed or not) or important in terms of contributing to landscape character or quality or local distinctiveness

It is not thought that there would be any particular issues of concern in regard to this criterion given that, should the proposed dwelling be granted permission in conjunction with an agreed unilateral undertaking and developed thereafter, the existing agricultural building to which the Class Q prior approval relates would be retained unaltered in any event. This situation is obviously different to the more usual position where the 'original' dwelling is sacrificed for the proposed replacement building.

The replacement dwelling is located on, or adjacent to, the footprint of the existing dwelling, or elsewhere within the curtilage of the building where a clear planning or environmental benefit will be achieved

The proposed dwelling would not be located on, or even within close proximity of, the agricultural building to which the prior approval relates (that the applicant is willing to effectively 'exchange' for a grant of permission). As already stated, it would be a considerable distance, in excess of 250 metres, away.

However, it is not considered that any conflict with this criterion necessarily carries significant weight in itself unless it would result in harm to any acknowledged planning interests.

In this regard, though, it is thought that the proposal would not only fail to occupy a location within the curtilage of the building that it would be 'replacing', or achieve a clear planning or environmental benefit as a result, but that it would unduly detract from the character and appearance of the surrounding landscape as described further below.

The replacement dwelling does not detract from the appearance and character of the landscape, and within the East Devon and Blackdown Hills Areas of Outstanding Natural Beauty harm the natural beauty of the landscape

It is considered that the proposed dwelling would be positioned where it would occupy an open corner of a large field where it is felt that it would appear unduly visually prominent and intrusive to the significant detriment of the character and appearance of the immediate area.

In particular, the building would be especially apparent in views from the adjacent road upon approach from both the west and north. In addition, it would feature most prominently in view from the public footpath to the east of the site, particularly upon approach from an easterly direction in which the footpath rises gently, initially alongside a hedged boundary to a field. The route of the footpath is within a direct line of sight of the application site over the entire length of this field, equating to a distance of around 180 metres, within which the proposed dwelling would appear as a significant intrusion into the landscape.

In response to expression of these concerns, comparisons have been made by the applicant's agent to the level of visual impact from the proposed dwelling upon the landscape with that of two nearby residential properties, namely Little Blacklands to the west and the farmhouse at Matthews Farm to the north.

Aside from the long-established fundamental principle that each proposal is required to be considered on its individual merits, it is considered that the landscape visual impact from the proposed dwelling would in this case be more harmful than that from either of these other properties. Neither are as prominent in as close a range views as the development would be; indeed, footpath no. 13 aside, there are no other public rights of way in the immediate vicinity of the site or either of the two properties cited. Furthermore, the dwelling at Matthews Farm is set well back from the road with the extent of closer range public vantage of the building largely limited to the entrance to the driveway serving the property while, despite being positioned immediately alongside the lane from the A373 leading to the site, Little Blacklands is itself largely screened by trees and hedges.

Conversely, being positioned amidst, and therefore much more closely related to, the large complex of farm buildings at Courtlands, the building with prior approval for conversion that the proposed development would 'replace' is considered to create a far less visually assertive impact upon the landscape. Moreover, this limited effect would be retained upon its conversion were it to be carried out.

In the light of these findings, it is thought that the proposed development would be unacceptable on the grounds of its adverse and detrimental impact upon the landscape.

As a consequence, it would also be contrary to the provisions of Local Plan Strategy 46 which, among other things, only permits development where it conserves and enhances the landscape character of the area and does not undermine landscape quality, and Policy D1 which essentially only permits development where it would respect the key characteristics and special qualities of the surrounding area. It would therefore also, by extension, contravene the provisions of overarching Strategy 7.

However, this needs to be balanced against other material factors that may otherwise weigh in favour of the proposal. As stated above, this includes assessment against the provisions of Policy H4.

Policy H4

This policy allows for dwellings in the countryside for agricultural, forestry or other rural business workers and is also criteria-based. Again, these are set out below and the proposal assessed against each.

There is a proven and essential agricultural or forestry or rural business need for the occupier of the proposed dwelling to be housed permanently on the unit or in the specific rural location for functional reasons

The proposal has been underpinned from the outset by two key strands in regard to this criterion; namely the role that the development would play in both facilitating succession planning for the business and improving the security of the farm.

As previously stated, it is intended that the dwelling would be occupied by the applicant. Whilst the business has been operated mainly by her parents, over recent months she has assumed increasing responsibility for running it. The success with which she has undertaken the role has meant that there is a keenness to continue with the present arrangements and allow her to develop the business further in future years.

In addition, it is considered that the commercial entrance to the farm, adjacent to which the proposed dwelling would be located, is vulnerable to access by potential thieves, particularly in view of its relative remoteness from the existing main farm dwelling. It has been advised that the farm suffered two such incidents during the period 2006-2010. Given this, together with the value of plant, vehicles and machinery held at the farm, it is argued that the presence of a dwelling at the entrance would help to deter unwelcome visitors to the site.

There is a particular worry regarding access to the farm during the night time in spite of the presence of alarm, camera and electronic gate systems at the premises. It is therefore felt that the addition of the proposed dwelling would assist in reducing the risk of incidents.

Paragraph 24.8 of the Local Plan promotes succession housing on larger working family farms as it recognises the need to retain young talented agricultural workers in the industry. It also states that the provision of on-site accommodation for family members employed in agriculture at the property will promote sustainability whilst retaining knowledge and expertise in the industry.

It does however also require that potential dwellings comply with the provisions of Policy H4.

Within the preamble to the policy, it is highlighted that 'essential need' refers to "a specific management activity or combination of activities which require the presence of a worker at most times if the proper functioning of an enterprise is not to be compromised and which cannot be achieved by any other practical means". Any "such need would relate to any particular event or combination of events that could lead to adverse animal welfare, crop or product quality or health and safety consequences which might threaten the stability and economic viability of an enterprise. In all cases, these would be events which could not be managed within normal working hours. Concerns relating to security will not, on their own, be sufficient to justify a new dwelling."

Aside from the perceived security benefits that the dwelling would enable to be realised, no other practical proven and essential functional need for the dwelling has been demonstrated in terms of the various forms of justification set out above.

As such, it is not thought that security issues alone properly justify the need for the development, regardless of its intended location.

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

No information has been requested of the applicant to enable her to seek to satisfy this criterion in light of the fact that the proposal has not been promoted under the auspices of a rural worker's dwelling to be considered against Policy H4. However, in view of the longstanding nature of the business, it is not thought that there are any particular issues in terms of its ability to meet this 'financial test'.

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

This criterion is not applicable to the application proposal since it involves the construction of a permanent dwelling.

The qualifying test of occupancy must involve at least one occupant being employed full time in the relevant rural business

Again, no specific evidence has been provided to demonstrate that this criterion would be met. However, based on the information available it is anticipated that the applicant would retain a full-time involvement in the business going forward.

There are no buildings on the operational holding suitable for conversion to meet the residential need or exiting dwellings available now or likely to be available within a nearby location or settlement

There is something of a paradox here insofar as, while there are three buildings on the farm that are not only suitable, but actually have the benefit of prior approval in place for conversion, and could therefore meet the claimed functional need for the applicant to live at the farm, the case in favour of the development is that it needs to be positioned where it would provide security at the commercial entrance to the site.

However, in the light of the conclusions reached above regarding the absence of significant weight that it is thought can be given to security concerns as properly justifying the need for the dwelling, it must be concluded that the proposal would also fail against this criterion.

In other words, had a proven and essential functional need for the proposed dwelling been established, it would ordinarily be necessary to first look at the availability and suitability of existing buildings for conversion to residential use in order to meet such need ahead of the provision of a new build dwelling. In the absence of any perceived demonstrable need for the dwelling on security grounds, the fact that no consideration has been given to the opportunities that exist for meeting any functional requirement through conversion of existing buildings must also weigh against the proposal in this case.

Any permission granted will be subject to an occupancy condition tying it to the relevant business on the proposed dwelling

Again, whilst not specifically underpinned by any case that the development is proposed under Policy H4, it has been confirmed that the applicant would have no objection to the imposition of an agricultural tie should the Committee be minded to grant permission on this basis.

Unilateral undertaking

It is also necessary to consider whether any resolution to accept the proposal would need to be subject to agreement of the various legal obligations necessary to ensure that it would amount to a genuine 'replacement' dwelling for the one of the three farm buildings with prior approval.

It could be argued that, as a 'standalone' rural worker's dwelling, and having considered the issues discussed above, if it were considered to meet the Policy H4 tests then it might be thought unreasonable to require the rights to one of the approved farm building conversions to be surrendered in exchange for a grant of permission.

While this is clearly not the position that officers are recommending, it is felt that it is a further issue that requires consideration should Members be minded to find in favour of the proposal.

Furthermore, it should be noted that any obligations that are entered into that would prevent permitted development rights for the conversion of the relevant farm building being used in perpetuity would be binding upon successors in title to the farm as well as the current applicant and farm owners. There is therefore a question as to the extent to which this is reasonable; this being one of the tests for legal agreements.

In this regard, while there is an acceptance that there is a degree of inequity in terms of the encumbrance that it would put in place for future owners/occupiers, any such persons would be aware of the existence of the obligations upon assuming title in much the same way as if there were a direction under article 4 of the GPDO, a condition of planning permission withdrawing permitted development rights or other restrictive obligations under section 106 of the Town and Country Planning Act that applied to the property/site.

Whilst, in the case of article 4 directions, there are normally compensatory arrangements in place, such arrangements are invariably not present in relation to planning conditions or section 106 obligations.

It is therefore felt that obligations to prevent successors in title from exercising permitted development rights for the conversion of the relevant farm building would be largely proportionate in terms of the benefits that would be derived from a grant of planning permission in exchange.

As such, it is concluded on this point that no more than very limited weight could be given to the appropriateness of avoiding the creation of an additional residential property at the farm through legal obligations.

However, at this stage it is reiterated that the wording of the submitted unilateral undertaking remains open to negotiation in relation to a number of detailed issues regarding particular clauses. Should Members be minded to accept the application proposal therefore, it would be recommended that the issuing of a final decision be deferred pending resolution of these outstanding matters.

Other Matters

It is proposed that foul drainage from the development would be discharged by means of a septic tank and soakaway system. To this end, a completed foul drainage assessment has been provided with the application particulars in line with the Council's validation requirements. The information that it provides complies with the standing advice of the Environment Agency in relation to the use of non-mains drainage systems.

The submission also includes a phase 1 ecological survey report. Its principal conclusions are that the proposed development would not affect any protected species and would retain adjacent hedges and trees.

Planning Balance

Paradoxically, although the proposal is mainly underpinned by the case that it would involve a replacement dwelling that meets the criteria set out in Local Plan Policy H6, and is not being expressly put forward under Policy H4 as a rural worker's dwelling, the two main strands of the applicant's argument in support of the proposed siting of the development involve succession planning for the farm and security. It is therefore thought that consideration against the Policy H4 criteria in this case is unavoidable.

The principal conclusions, in the view of officers, are:

- The broad principle of a 'replacement' dwelling, applying the principles established in the Mansell case, is acceptable;
- The principle of securing obligations under section 106, to forego the right to implement part of extant prior approval ref. 19/0967/PDQ - insofar as it relates to one of the three dwellings approved through conversion of agricultural buildings on the farm using permitted development rights - as well as permitted development rights in perpetuity in exchange for a grant of planning permission for the proposed dwelling, is acceptable;
- However, applying the Policy H6 criteria, the development would not be located on or adjacent to the footprint of the building with prior approval for conversion and is considered to be unacceptable owing to the detrimental impact of the dwelling upon the rural landscape character and appearance of the surrounding open countryside;
- Little weight can be given to the criteria of Policy H4 to offset this harm. Whilst the principle of provision of succession housing on farms is accepted by the Local Plan, it is subject to these criteria being met. However, this would not be the case. Security concerns cannot, in themselves, justify a functional requirement for a dwelling and no

other case to demonstrate how the development would meet the functional test that is applied by the policy has been provided;

- There is therefore no essential need for the dwelling in the location proposed, or indeed any further dwelling on the farm, to meet any functional requirement;

- In the event that such a need existed, there are existing buildings at the farm that are not only suitable and available for conversion - that could be used instead of the provision of a new build dwelling - but prior approval is in place for their conversion. The proposal would therefore still fail to meet all of the Policy H4 criteria.

In the light of these findings, it is concluded that the proposal would be unacceptable.

Whilst the support for the development expressed by the parish council and ward member are duly acknowledged, it is considered that the balance of the above conclusions weighs firmly against acceptance of the proposal.

RECOMMENDATION

REFUSE for the following reason:

1. The proposal would, in the absence of sufficient justification that a dwelling is necessary on the site to meet any proven and essential functional need or any evidence that it is required to replace the existing agricultural building with prior approval for residential conversion on a different site within the farm holding, represent the introduction of a development that would appear unduly visually intrusive in the landscape, and would fail to respect the key characteristics and special qualities of the area, to the detriment of the rural landscape character and appearance of the countryside. As a consequence, it would be contrary to the provisions of Strategies 7 (Development in the Countryside) and 46 (Landscape Conservation and Enhancement) and Policies D1 (Design and Local Distinctiveness), H4 (Dwellings for Persons Employed in Rural Businesses) and H6 (Replacement of Existing Dwellings in the Countryside) of the adopted East Devon Local Plan 2013-2031 and guidance contained within the National Planning Policy Framework (2019).

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 listed building 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:

E-100 REV B

Location Plan

24.08.20

| | | |
|-------------|----------------------|----------|
| P-100 REV C | Proposed Site Plan | 24.08.20 |
| P-300 REV C | Proposed Elevation | 24.08.20 |
| P-200 REV G | Proposed Floor Plans | 24.08.20 |

List of Background Papers

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

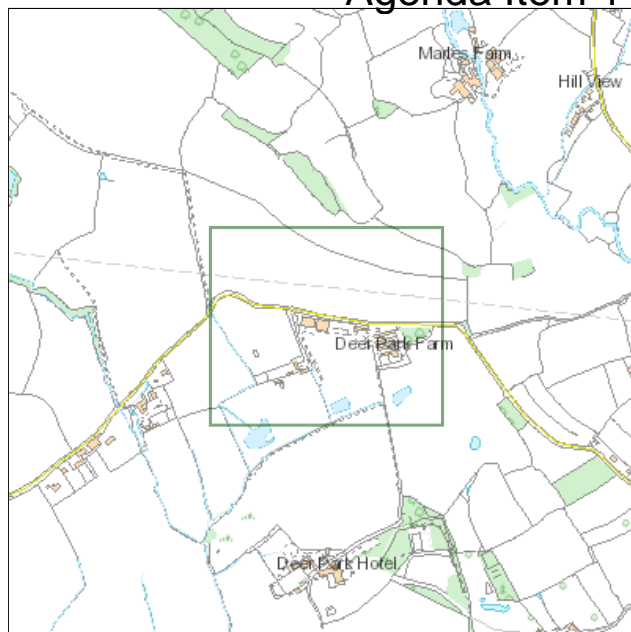
Ward Feniton

Reference 20/1636/FUL

Applicant Mr Donovan Galling

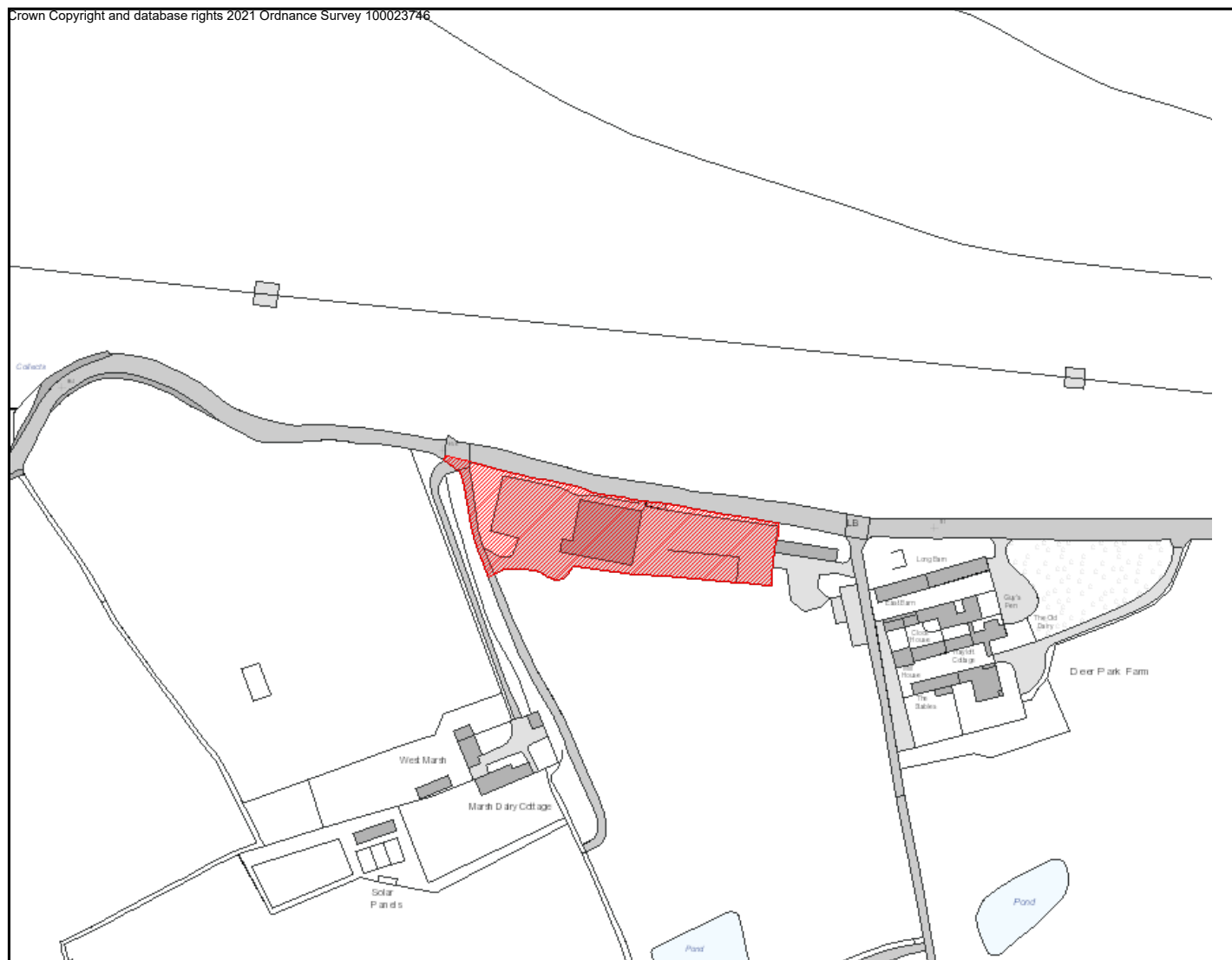
Location The Workshops Deer Park Farm Buckerell Honiton EX14 3EP

Proposal Replacement of former showroom & workshop building with B1/B2/B8 units, extension and change of use to B1 and B8 of the existing stores building, addition of an entrance canopy and use of the yard for outside storage and parking



RECOMMENDATION: Approval with conditions

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| | | Committee Date: 17th March 2021 |
| Feniton (Buckerell) | 20/1636/FUL | Target Date: 19.10.2020 |
| Applicant: | Mr Donovan Galling | |
| Location: | The Workshops Deer Park Farm | |
| Proposal: | Replacement of former showroom & workshop building with B1/B2/B8 units, extension and change of use to B1 and B8 of the existing stores building, addition of an entrance canopy and use of the yard for outside storage and parking | |

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The application is before members as the officer recommendation differs from the view of the Ward Member.

The application site was the former base for kitchen fitters Martha Mockford. Prior to a fire in 2015, the site comprised of two agricultural buildings, one used as a workshop and showroom, the other as a materials store. The fire destroyed the workshop and showroom building, plus part of the storage building.

This application seeks permission for the construction of a replacement building and to secure permission for the commercial use of the site which has occurred since 1988.

The replacement building would be used for B1, B2 and B8 purposes. The storage building to the east would be B1 and B8 purposes. The application also seeks to regularise the use of the external storage area within the yard. This area, a previous silage clamp, appears to have been operated prior to 2005 as an external storage area for building materials.

Due to the application site's location in open countryside the proposed development shall need to be supported through specific policy that supports the scheme. In this instance the development shall utilise brownfield land and has support through the provisions of Policy E5 (Small Scale Economic Development in Rural Areas) of the Local Plan. The principle of development is therefore supported subject to further consideration to the development's impact upon the

rural character of the area, the impact upon nearby residents and upon the local highway network.

The Local Plan places importance on the development of its employment base and where established sites are successful, additional extension should be provided to concentrate and encourage economic development. Even small economic development in rural areas is needed to promote employment diversification however this should not be to the detriment of environmental interests or the open countryside.

The Parish Council and a Local Ward Member have raised concerns with regards to the replacement buildings scale and appearance. However the marginal increase in height of the replacement building compared to its predecessor is not considered to significantly increase the prominence of the building within the wider landscape. The overall scale and form of the replacement building would still be similar to that of an agricultural shed. The building would retain the scale and form of an agricultural building albeit constructed with materials that would reflect the building's commercial use.

Concerns have been raised by a third party highlighting the issue of noise emitted from the site and the need for this to be adequately considered. This issue has also been raised by the Parish Council who have requested that Environmental Health are consulted and their recommendations implemented to mitigate any potential adverse impacts. Conditions have been recommended below that seeks to restrict the level of noise emitted from the site to a level considered to unduly harm the amenity enjoyed at nearby residential properties.

Advice has been sought from the Highway Authority who have raised no objection to the scheme. Despite concerns raised by the Parish Council, the proposal, considering its past use, is not thought to add significantly to the number of vehicles to the site. Furthermore the site benefits from two accesses and ample parking provision.

The application is considered to comply with the relevant strategies and policies within the East Devon Local Plan. As such the application is recommended for approval subject to the conditions listed below.

CONSULTATIONS

Local Consultations

Parish/Town Council

The Parish Council recognises that this planning application seeks to replace a commercial premise that was destroyed by fire some years ago. It welcomes the employment opportunities that could be created but it has a number of specific comments to make on the application.

It is noted that the building is slightly bigger and taller than the building that had previously stood on the site. That could increase its visual prominence and it is important that the rural aspect of the road side is retained and it is vital that the hedge

is required to be retained by planning condition to screen the new building and that no advertisements should be allowed to be placed on the north elevation of the building.

The Parish Council objects to the use of metal cladding on the walls and the roof. It is considered that this is not appropriate material for a rural workshop, being akin to that used on an urban Industrial estate such as Heathpark in Honiton. It would be very stark and utilitarian in appearance when used over such a large area and the large expanse of roof will be visible from higher ground at the Knapp which will directly look down on the site, and which has a public footpath crossing it. A more muted material would be more suitable. It would be preferable if the masonry finish proposed for the south elevation to extend around all elevations.

In terms of the proposed uses of the building this needs to be clarified by the District Council as the use the application is proposing B1,B2 or B8.The Government has recently amended the Use Classes Order to create Class E, which now includes what was Class B1 (offices, light industrial workshops and research and development). The new Class includes these uses in the same use class as retail, financial establishments, gyms, crèches, nurseries and restaurants. That means the building could potentially be used for any of these uses without planning permission. The building appears to have been designed as workshops but it is hoped that such a use can be restricted by planning condition to prevent inappropriate uses which could generate significant traffic.

The issue of an alternative B2 use which is a general industrial use is more problematical, as it could include very noisy and smelly operations which could adversely affect the residential amenities of those that live at the Deer Park Farm properties and at West Marsh Farm. The Parish Council ask East Devon planners to consult the environmental health department to consider what controls could be imposed to restrict general industrial use so that it does not cause an environmental nuisance.

The application seeks to regularise the outdoor storage use of the outside yard. The Parish Council does not object to the use so long as the height is restricted to the equivalent of a single shipping container.

The geometry of the access into the site should be maintained so as to restrict the ability of commercial vehicles to enter or leave the site from / to the west so that commercial traffic does not pass through Buckerell Village.

Further comments:

This amended application was discussed at the meeting of Buckerell Parish Council on 11th November. The change was noted but it was agreed by Council that our original comments still applied. In addition there was concern expressed about the impact of unknown numbers of vehicles accessing a tight turn in at a point where the road going from Weston to Buckerell becomes single track.

Feniton - Cllr Susie Bond

I have no objection to the replacement of the Martha Mockford buildings on the same footprint as before they were demolished by fire. However, I have concerns about the larger scale application for which there appears to be no functional need.

The application would be tantamount to a small industrial area in a totally unsuitable location and, unless the plan is modified, should be refused.

Technical Consultations

Environmental Health

I have considered the application and have concerns relating to environmental health issues. I refer to the amended plans received 4 November 2020.

It is noted that the existing B1/B8 units will remain and provides some shielding from potential B2 uses in the new units. To minimise the risk of noise disturbance I recommend the following conditions

No powered plant or machinery shall be operated outside the buildings.

Reason: To protect the amenity of local residents from noise and/or dust.

Unless there are existing controls or established use prohibiting the imposition of hours, I would recommend the removal of the requested Sunday open hours.

Reason: To protect the amenity of local residents from noise.

Further comments:

I refer to the above application and correspondence relating to the requested use of the site.

The site is located in a very rural location with a small number of residential premises to the west/north of the site. As the B2 use of the is currently not determined it is necessary to control noise to protect residents from future uses of the site.

o The Rating Level of sound emitted from any fixed plant and/or machinery associated with the development shall not exceed background sound levels by more than 3dB(A) between the hours of 0700 - 2300 (taken as a 15 minute LA90 at the boundary of the nearest sound-sensitive premises) and shall not exceed the background sound level between 2300 - 0700 and Sundays and Bank Holidays (taken as a 15 minute LA90 free field at the nearest/any sound-sensitive premises). All measurements shall be made in accordance with the methodology of BS4142 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments.

Where access to the nearest sound-sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound-sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.

Reason: To protect the amenities of nearby residents

o Hours of operation of 08.00-18.00 Mon to Sat are acceptable. Sunday and Bank Holiday use 08.00-18.00 should be restricted to the B8 storage facility only.

Reason: To protect the amenities of nearby residents

County Highway Authority

I certainly don't see a problem in the development, I'm just wondering if there is a strong enough desire to close up the track entrance and just have the main carriageway access??, I think there would still be sufficient parking through this option.

I won't be objecting either way in summary though.

Other Representations

One third party comments have raised concerns over the following issues:

- Visual impact of the new building.
- Noise caused by the commercial activity at the site.
- Noise produced from plant machinery and equipment within the yard area.
- Increase in commercial traffic and impact this would have on the local traffic network.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 38 (Sustainable Design and Construction)

D1 (Design and Local Distinctiveness)

EN14 (Control of Pollution)

EN22 (Surface Run-Off Implications of New Development)

E5 (Small Scale Economic Development in Rural Areas)

TC2 (Accessibility of New Development)

TC9 (Parking Provision in New Development)

National Planning Policy

National Planning Policy Framework

Nation Planning Practice Guidance

Site Location and Description

The application site is located east of Buckerell and west of Deer Park Farm. The site was previously occupied by Martha Mockford bespoke kitchen fitters. The site shares its primary access with the residential properties of West Marsh and Marsh Dairy Cottage that are both located approximately 90 metres to the south.

Currently the application site comprises of a large barn enclosed with breeze block and concrete walls with a metal corrugated roof. Presently the building contains 22 storage containers and three small workshops that are leased out by the applicant. A yard area also extends to the west. Upon site visit, a steel portal frame had also been erected immediately east of the existing store building. The application details that this was constructed after a fire destroyed a previous building in 2015.

The immediate area is predominantly rural in character with large hedgerows enclosing the adjoining lane that connects Weston to Buckerell. Despite the existing structure being fairly large, the building and yard are well screened by hedgerows and trees from wider public views along the adjoining highway.

Proposed Development

The application seeks permission for the building that has in part been constructed to replace the previous workshop and showroom that was destroyed. The replacement building is also proposed to be used for B1, B2 and B8 purposes. The storage building to the east would be retained for B1 and B8 purposes. The application also seeks to regularise the use of the external storage area within the yard. This area, previously a silage clamp, appears to have been operated prior to 2005 as an external storage area that is currently utilised by a local tradesman for the storage building materials.

The replacement building would have a slightly larger footprint than its predecessor having the same depth of the existing storage building. The overall height of the structure would be slightly larger with a ridge height of 5.7 metres. The building shall be finished in metal cladding and blockwork.

ANALYSIS

The main issues for consideration are the principle of development, visual impact, impact upon neighbours and highway safety.

Principle of Development

Strategy 7 of the Local Plan only permits development in the countryside where there is specific policy support elsewhere in the plan or in a Neighbourhood Plan. In this instance the application site is considered brownfield land and Policy E5 (Small Scale Economic Development in Rural Areas) is deemed most applicable. There is no 'made' Neighbourhood Plan for the area.

The site has operated since 1988 as a workshop and showroom for Martha Mockford. Despite a lack of planning history since the two original barn's conversion, there are various enforcement records and a past certificate of lawfulness (05/2884/CPE) linked with the site. Whilst the certificate for the use of the yard as open storage was refused,

there is strong evidence to suggest that the site as a whole has been operated for B2 and B8 purposes in excess of 10 years prior to submission of the current application.

The submitted Design and Access Statement details that Martha Mockford's presence at the site has deteriorated over time and in 2015 the eastern building ceased to be used as a materials store for the company and is now leased out for personal storage in shipping containers in addition to a couple of small workshops. The submitted existing floor plan details how the destroyed building largely comprised as a workshop with an ancillary showroom for the bespoke kitchen fitters. Upon the time of site visit the yard area was being used as open air storage of building materials for a local tradesman.

In light of the above history, there is considered to be an established commercial use at the site despite the demolition of the western building. This is because the use relates to the land rather than any specific structure or building. The application proposes B1, B2 and B8 uses within the replacement building, a B1 and B8 use for the eastern building and an open air storage use for the yard area. The application details that Martha Mockford shall occupy part of the site with any remaining floorspace being made available to lease. As such there are no details over potential occupiers of the units.

As the proposals relate to a replacement structure on previously developed land and use of an existing building the development is supported in principle by Policy E5 of the Local Plan subject to further considerations listed below.

Landscape Harm

The Town Council and Ward Member have expressed concerns over the replacement building's height and use of metal cladding for the roof and part of the north elevation. It is acknowledged that the overall ridge height of the replacement building would be approximately 0.3m taller than the original building. The structure would be partially visible upon your approach to the site from Buckerell during the winter months when the trees on the western boundary are not in leaf. Additionally views of the building would be available from the public footpath to the north that leads to Awliscombe. However the marginal increase in height of the replacement building compared to its predecessor is not considered to significantly increase the prominence of the building within the wider landscape. The overall scale and form of the replacement building would still be similar to that of an agricultural shed.

Furthermore, whilst it is noted that the use of metal sheeting for the north elevation and roof would give the building a more industrial appearance, it is not considered to be unduly harmful to the rural character of the area, particularly taking into account that the north elevation would be largely screened by the adjoining hedgerow and that the former building's roof was corrugated metal. The building would retain the scale and form of an agricultural building albeit constructed with materials that are indicative of the building's commercial use.

Impact on Neighbouring Amenity

The application proposes a B1, B2 and B8 uses within the replacement building to the west. The submitted floor plans indicated that the building would be subdivided into two units with associated toilet facilities and office space. Whilst the site is located within a rural location there is still potential for the development to harm the amenity of those residing within the residential properties to the south of the site and those to the east at Deer Park Farm through the emission of noise and increased traffic.

Concerns have been raised by a third party highlighting the issue of noise emitted from the site and the need for this to be adequately considered. This issue has also been raised by the Parish Council who have requested that Environmental Health are consulted and their recommendations implemented to mitigate any potential adverse impacts.

Upon submission the application a general industrial (B2) use was proposed within both buildings. After concerns expressed by Environmental Health were relayed to the applicant over the impact this could have on nearby neighbours revised plans were submitted indicating that a B2 use would only be operated within the replacement building. This ensures that there is a degree of relief between the eastern building and the residential units to the east at deer park.

Furthermore it has been suggested that any permission is conditioned to ensure that any sound emitted from any fixed plant or machinery associated with the development shall not exceed background sound levels by 3dB during the standard working week and shall not exceed background sound levels on Sundays and bank holidays. This ensures that the noise emitted from within the two buildings and yard area is controlled.

The prospective occupiers of the site are currently unknown and the proposed use classes for each building would permit a variety of business types to operate. As such, the conditions have been worded to control noise regardless and type of business introduced in order to protect the amenity of adjoining residents.

Concerns expressed by the Parish Council and Local Ward Member over the proposed industrial uses are duly acknowledged, however, It is also important to note that Martha Mockford and, more recently the storage business, have been operating from the site without any restrictions. The current application provides an opportunity, through the use of planning conditions, to protect the amenity of adjoining residents in the long term in an attempt to future proof the site.

Comments from the Parish Council with regards to the changes made within the Planning Class Use Order are acknowledged. The introduction of 'Class E' includes a broad range of uses that previously fell under the former class uses of A1, A2, A3 and, most relevant to this application, B1. The concerns raised stem from the ability for a B1 use to then change to any use within Class E without the need for planning permission. The Parish Council are concerned with the potential for an increase in traffic. Whilst it is difficult to ascertain whether other uses within Class E would cause an unacceptable level of traffic, it is acknowledged that some of the uses could be incompatible with surrounding land uses including those proposed within this application. As such, a condition shall be applied restricting the use of the buildings and outside yard area to what has been applied for. As the application was submitted

prior to the changes to the Use Class Order, it is right that then old use classes are referred to.

Parking and Highways

The site benefits from two points of access, one to the west that forks off to serve West Marsh and Marsh Dairy and another immediately north of the yard area. Both access points benefit from good visibility and would allow vehicles to enter, park and exit in a forward gear. 8 standard parking spaces have been proposed with 2 loading bays immediately south of the replacement building for larger HGV during deliveries.

Concerns have been raised with regards to the ability of the adjoining rural lane between Buckerell and Weston to accommodate the type of traffic associated with the commercial use of the site. The width of the rural lane, in addition to the availability of multiple passing points is considered to reduce the potential for problems or conflict between domestic and commercial vehicles. While it is appreciated that the lane narrows upon approaching the site from Buckerell, this is only briefly and the western access is particularly wide enabling larger vehicles to safely manoeuvre into the site.

However, in light of the Parish Council and Ward Member comments in relation to highway safety, further comments were sought from the Highway Authority. The County Highway Authority has indicated that they have no objection to the scheme and consider that the development provides a sufficient level of parking for the types of vehicle associated with the sites proposed industrial uses.

It is of course material to the highway situation the level of previous traffic that could have been associated with the buildings over the last 10 years.

CONCLUSION

The Local Plan places importance on the development of its employment base and where established sites are successful, additional extension should be provided to concentrate and encourage economic development. Even small economic development in rural areas is needed to promote employment diversification however this should not be to the detriment of environmental interests or the open countryside.

Subject to conditions to control the uses and hours of operation, and in light of the previous buildings and uses on the site, the proposal is considered to be acceptable.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. The Rating Level of sound emitted from any fixed plant and/or machinery associated with the development shall not exceed background sound levels by more than 3dB(A) between the hours of 0700 - 2300 (taken as a 15 minute LA90 at the boundary of the nearest sound-sensitive premises) and shall not exceed the background sound level between 2300 - 0700 and Sundays and Bank Holidays (taken as a 15 minute LA90 free field at the nearest/any sound-sensitive premises). All measurements shall be made in accordance with the methodology of BS4142 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments.
Where access to the nearest sound-sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound-sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.
(Reason: To protect the amenities of nearby residents in accordance with Policies D1 – Design and Local Distinctiveness and EN14 - Control of Pollution of the adopted East Devon Local Plan.)
4. The building and open storage area as annotated on the submitted Location Plan shall only be used for a uses falling within Use Class B1, B2 and B8 as indicated on the submitted Floor Plan, Drwg No: 348/05 REV D and for no other purpose (including any other purpose in Class E of the amended 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) without the prior express consent of the Local Planning Authority.
(Reason - To ensure that the use is compatible with the surrounding uses and to enable to the Local Planning Authority to retain control over future uses in the interests of amenity and sustainable development in accordance with Strategy 7 - Development in the Countryside and Policy D1 - Design and Local Distinctiveness of the East Devon Local Plan 2013-2031.)
5. The uses hereby approved shall only be operated during the hours of 07.30-18.00 on Monday to Saturday. On Sunday's and Bank Holiday's the B1 and B8 uses only can operate between the hours of 08.00-18.00 with no B2 activity permitted to take place.
(Reason: To protect the amenities of nearby residents in accordance with Policies D1 – Design and Local Distinctiveness and EN14 - Control of Pollution of the adopted East Devon Local Plan.)

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this

application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Plans relating to this application:

| | | |
|--------------|----------------------|----------|
| 348/05 Rev D | Proposed Floor Plans | 09.02.21 |
| 348/01 Rev D | Location Plan | 10.02.21 |
| 348/07 B | Combined Plans | 24.08.20 |
| 348/06 | Proposed roof plans | 03.08.20 |

List of Background Papers

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

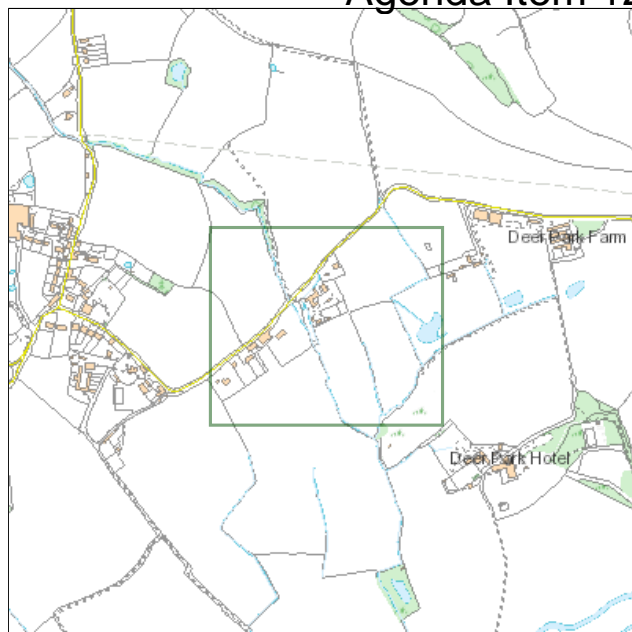
Ward Feniton

Reference 20/1808/FUL

Applicant Mr and Mrs Goodall

Location Owl Cottage Treaslake Farm Buckerell Honiton
EX14 3EP

Proposal New driveway, construction of single and two storey extensions to dwelling and enlargement of parking area and garden



RECOMMENDATION: Approval with conditions



| | | |
|--------------------------------|--|---|
| | | Committee Date: 17th March 2021 |
| Feniton (Buckerell) | 20/1808/FUL | Target Date: 22.10.2020 |
| Applicant: | Mr and Mrs Goodall | |
| Location: | Owl Cottage Treaslake Farm | |
| Proposal: | New driveway, construction of single and two storey extensions to dwelling and enlargement of parking area and garden | |

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

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

Following approval for the removal of a holiday tie from a building within the grounds of Treaslake Farm, permission is now sought to enlarge the building and create a separate access and curtilage.

The main issue to consider is the effect of the development on the setting of Treaslake Farm, which is listed grade 2. In response to comments from the Conservation Officer and Planning Team a number of changes have been made to the proposal but owing to the creation of a new access, substantial enlargement of the building and division of the curtilage there is a residual degree of harm to the setting of the listed building. While no individual aspect of the proposal could be considered harmful on its own, cumulatively they result in a degree of change to the setting which is considered to result in less than substantial harm.

Such harm must be given considerable importance and weight in the overall balance and there must be clear and convincing public benefits to outweigh the harm. In this case the benefits would be mainly private but there would be some public benefits: economic activity during construction; addition of a good quality dwelling to the housing stock that would otherwise be underused; and upgrading of the environmental credentials of the building. Because the proposal is only for one dwelling these public benefits are modest but so, too, is the degree of harm to the setting of the listed building.

In conclusion, and having regard to all other factors, the small degree of harm to the setting of Treaslake Farm would be outweighed by the public benefits arising from the development and therefore the proposal is supported.

CONSULTATIONS

Local Consultations

Feniton - Cllr Susie Bond

My comments relate to 20/1808/FUL and 20/1807/VAR which need to be considered together.

My preliminary view on these applications is that they should be REFUSED.

East Devon has a considerable number of holiday lets which under any other guise would be considered to be development in the open countryside contrary to Strategy 7 of the current Local Plan. The Council must be consistent in its approach to applications seeking to remove the holiday let restriction.

I have looked at planning applications relating to Treaslake and am unable to find one relating to the subdivision of the main property to create a new holiday let.

However, these are my preliminary views and I look forward to the debate should this application come to committee.

Parish/Town Council

19/09/2020 - Buckerell Parish Council has discussed this application and has no objection (with the proviso that during the construction phase lorries do not block the highway).

23/11/2020 - Buckerell Parish Council has reviewed the proposed revisions to the application and continues to have no objection.

14/01/2021 - Buckerell Parish Council has reviewed the proposed revisions to the application and continues to have no objection.

Other Representations

None received.

Technical Consultations

EDDC Trees

The Arboricultural Report submitted with the application identifies a number of trees within the application site and has categorised them according to the BS 5837:2012. Report and associated survey and categorisation appears to be a fair assessment of the trees and the potential for the development to impact on them. A number of lesser quality trees are recommended for removal either on grounds of poor condition or to facilitate the access requirements of the development. None of these trees are of sufficient quality to be considered as a valid constraint on the development.

The report includes the necessary Tree Protection Plan (TPP) along with associated measures and Arboricultural Method Statements (AMS) to ensure that any potential damage through construction activities is avoided.

On the basis that the TPP and AMS are fully implemented and adhered to, there are no arboricultural reasons for the application not to be approved.

Conservation

CONSULTATION REPLY TO PLANNING CENTRAL TEAM PLANNING APPLICATION AFFECTING LISTED BUILDING

ADDRESS: Owl Cottage, Treaslake Farm, Buckerell

GRADE: II APPLICATION NO: 20/1808/FUL

PROPOSAL: New driveway, construction of single and two storey extensions to dwelling and enlargement of parking area and garden

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

Treaslake Farmhouse and the associated former barn have primarily architectural and historic interest for their historic construction and modest scale - the single-range T-plan form which shows incremental development over a period of centuries, and the use of traditional materials - roughly dressed stone with timber framed thatched roof and timber work mullions and casements.

The overall setting of the listed building has already been compromised over the last century with a number of new outbuildings constructed across the site together with the introduction of large areas of hard landscaping.

Owl Cottage, is set far back into the farm group and to the south of the farmhouse and is modern and of no historic or architectural value in its own right. It comprises two storeys with accommodation at first floor and garaging under. It is simple in form with rendered elevations and slate roof including 3no. rooflights facing the farmhouse and shallow dormers to the south. There is a staircase access to the upper floor at the eastern end. Whilst Owl Cottage is a modern structure and in need of updating its existing form and appearance have little impact on the setting of the farmhouse when viewing the two in context due to the location and the surrounding mature landscaping to the west and at the entrance to the farm group.

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

Treaslake Farm operates as a successful holiday letting business with 7no. holiday lets alongside the principal dwelling which is currently occupied as a permanent residential use. This application relates to Owl Cottage and seeks to alter and extend it to provide unrestricted residential accommodation. In addition, it is intended to create a new driveway, parking area and amenity space.

Owl Cottage is already a relatively large structure with 4no. garages underneath the first floor accommodation. This application will extend the structure in height, length and width, making it more prominent in the landscape and less subservient in the farm group. In addition, what is currently relatively plain will be distinctly more domestic in appearance. Whilst, it is appreciated that both existing and proposed landscaping and

the distance between the cottage and the principal heritage asset will minimise the impact on the farmhouse itself, it is considered that there will be some change to the overall context of the site. What is currently a relatively low key outbuilding, in terms of appearance, becomes a more domestic styled dominant structure losing its subservience in the hierarchy of the farm group.

It is also proposed to introduce a new separate vehicular access route to Owl Cottage, which might lead to it being separated from the main farmhouse and group in the future. It is considered that this will also have some impact on the existing heritage asset by increasing the areas of hard landscaping. It also seems to be outside the original historic courtyard bounded by the stream.

It is appreciated that the alterations and extension of Owl Cottage create a 'high quality design and landscape plan', but there are concerns that although likely to result in less than substantial harm, that this alters the hierarchy and subservience of the outbuildings and has an impact on the wider setting of the farmhouse. It is noted that it is proposed to introduce additional planting, hedgerow and Devon bank, but this does not appear to mitigate the harm sufficiently.

In conclusion, whilst the proposal will result in less than substantial harm to the significance of the farmhouse itself, there is some further harm to the overall context and setting of the listed building.

PROVISIONAL RECOMMENDATION - PROPOSAL UNACCEPTABLE

Further comments:

Amended plans received 17th November 2020:

The submitted revised plans and response seek to overcome the comments previously raised:

Alterations & Extension: the reduction in height, albeit modest, will help to mitigate the proposals;

Vehicular access route: the proposed changes will help to mitigate the introduction of the separate access using a more appropriate surface and the proposed new hedge;

Conclusion: it is considered that the visual and material changes will help sufficiently to mitigate the proposals, having less impact on the wider setting of the listed farmhouse and result in less than substantial harm. No further comments.

Further comments:

Amended plans received 4th January 2021:

The submitted revised plans and response seek to overcome the comments previously raised:

Alterations & Extension: the increase in the area of domestic curtilage, additional screening, including the existing shed; the reduction in size and the addition of shutter style screening to the high level windows; and the proposed materials will improve the visual appearance of the proposals and help to mitigate the proposals;

Parking: the parking for the existing holiday units has been re-located in front of Owl Cottage and the visual appearance of the surfacing softened by using grasscrete and minimising the extent of the tarmac. This additional separation will help to improve the setting of the listed building;

Vehicular access route: the additional information regarding the re-instatement of an older driveway is noted and the historic OS maps certainly show a track in this location. The single access point is retained and the use of a more appropriate surface and the proposed new hedge will help to soften any impact;

Conclusion: it is considered that the additional visual and material changes will help sufficiently to mitigate the proposals, having less impact on the wider setting of the listed farmhouse and result in less than substantial harm. No further comments.

PLANNING HISTORY

| Reference | Description | Decision | Date |
|------------------|--|--------------------------|-------------|
| 99/P0774 | Adapt One Holiday Let Into Two Lets, convert Garage To Office & New Garage/store & Holiday Let | Approval with conditions | 03.06.1999 |
| 20/1807/VAR | Variation of condition 3 of planning permission 99/P0774 (Adapt one holiday let into two lets, convert garage to office & new garage/store & holiday let) to allow Owl Cottage to be used as an unrestricted residential dwelling and to amend the holiday restriction on Squirrel Cottage and Mallard Cottage | Approval with conditions | 12.02.2021 |

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies
Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN9 (Development Affecting a Designated Heritage Asset)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications 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

Treasure Lake Farm is located on the eastern fringe of Buckerell with open countryside to its north and south and neighbouring residential properties on both sides. The site has been developed over the years to include a number of holiday lets through conversion or new build. The host property is a grade II listed farmhouse with stone walls and a thatched roof and is where the applicants currently live. This application relates to one of the detached new-build properties, Owl Cottage, which is situated to the south of the main group of buildings.

In addition to Owl Cottage there are a further six cottages, all of which are currently let as holiday accommodation. Following the release of the holiday condition on Owl Cottage, only three out of the total of seven cottages are subject a planning condition restricting their use. The remainder could be occupied as independent dwellings, although the status of Badger Cottage is uncertain because neither planning permission nor listed building consent have been granted and no evidence has been provided that the use is lawful.

Owl Cottage is a detached two storey building which comprises four garages on the ground floor and two-bed self-contained accommodation on the first floor, accessed via an external staircase. The walls are rendered and the roof is slate covered.

There is a stream running through the grounds which gives rise to a risk of flooding at the western edge of the site.

Proposal

This application seeks planning permission for substantial alterations to a former holiday let in the grounds of Treasure Lake Farm and provision of an independent access from the road. Members will recall approving the removal of the holiday use condition at the Planning Committee on the 10th February 2021.

The building currently has four garages on the ground floor but this area would become the kitchen, dining room and entrance hall of the proposed dwelling. Extensions off the north east (in place of the external stairs), south east and south west elevations would

provide a snug, living room, utility and WC. Upstairs there would be four bedrooms facilitated by extending over the living room and utility/WC extensions. A small roof terrace would be provided for bedroom 1 above the living room. In addition to the horizontal enlargement, the height of the building would be increased at eaves and ridge level to avoid the sloping ceilings of the existing accommodation. Externally the current rendered walls would be clad in vertical timber boards and cork panels, while the roof would be finished in natural slate.

To access the dwelling a new driveway would be provided branching off the existing drive about 10 metres in from the road. This would follow the south west boundary of the site, running parallel with the stream and terminating at a parking and turning area. From there a pedestrian bridge would cross the stream to a path leading to the dwelling.

A curtilage for the dwelling would be defined by a hedgebank and fencing and would incorporate the existing parking area next to the garages and part of the adjacent paddock.

ANALYSIS

Main issue

The building, although not listed or curtilage listed itself, lies within the curtilage of a grade II listed building. While the extension of dwellings in the countryside is acceptable in principle, the effect of the proposed development, including the new driveway, on the setting of the listed building needs special consideration.

Setting of the listed building

The significance of the listed building is derived partly from its vernacular architecture which is evidence of its origins as a working farmhouse, and partly from its rural setting. The immediate setting of the building has been slightly compromised by modern additions but these are understood to have replaced earlier buildings. Owl Cottage, although it is another modern addition (permitted in 1999), sits outside the main group of buildings but nevertheless forms part of the backdrop to the farmhouse when viewed from the road.

When it comes to determining applications for development affecting the setting of a listed building, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to "have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses." The key test, therefore, is whether the proposed alterations would preserve the setting of the listed buildings.

The proposal involves quite substantial enlargement of the building and changes to its external appearance, including its plan form. Currently it is a simple, fairly small scale building in matching materials which is clearly subservient to the main group of buildings.

The proposal takes advantage of the physical separation between Owl Cottage and the farmhouse and seeks to make a deliberate break in terms of appearance and functional separation. A number of factors contribute towards this, some enhanced through negotiation:

- The first is the creation of a separate driveway (albeit shared for the first few metres) divided from the existing drive by a fence and new hedge planting. This follows the historic alignment of a track which is evidenced on old maps, although it now meanders slightly to break the view from the road and this visual break is further enhanced by new planting.
- The second is the creation of a clearly defined curtilage around Owl Cottage which creates a substantial new boundary between the retained curtilage of the farmhouse and the curtilage of the new dwelling.
- The third is a change to the wall finish from render, which matches the farmhouse, to timber boards and cork panels, evoking a more rustic appearance.
- The fourth is the limited number and size of openings in the north west elevation which helps to make the building appear recessive and of secondary importance.

These elements of the scheme would serve to create the appearance of a neighbouring dwelling which is visually and functionally separate from the farmhouse and its grounds.

Having regard to these characteristics of the development, the main question is whether the proposals would give rise to any harm to the setting of the listed building.

As a result of the proposed alterations the building would be visibly taller when viewed from the road but the change would not appear significant owing its distance from the road (70m) and the relative prominence of the larger farmhouse. Although the building would be longer, the additional length would be mostly screened by trees. Furthermore by extending the ridge to the south west, the existing visual gap between the farmhouse and the north east end of the building would be maintained.

The driveway would make a more obvious change when viewed from the road but this would be mitigated by new planting and a reinforced grass surface making it appear less visually dominant.

Taking these factors into account the overall magnitude of the change to public views towards the listed building would be minor. Moreover, the strong boundary dividing the plot from the retained curtilage of the farmhouse would establish a clear visual break without the development encroaching on the most important open spaces immediately around the farmhouse.

Notwithstanding these positive indications of separation between two plots, the proposal would result in a change to the historic layout of the site and the setting of the farmhouse. The importance of the spaces around the building can be considered in turn:

- In front of the farmhouse there is a formal garden fronted by a stone boundary wall and this creates an attractive setting to the principal elevation. This would be unchanged.
- Moving to the side, the new driveway would narrow the space between the end of the farm house and its boundary but the verdant character and absence of buildings would be maintained. Consequently the driveway would not substantially intrude on the setting of the building.
- At the rear the change would be more significant because an area of land would be removed from the curtilage of the listed building. However, the farmhouse would still enjoy a spacious setting and historically the site of the garages and parking formed a separate enclosure to the enclosure around the farm buildings. Furthermore, although there would be some lessening of the connection between the farm and the farm land, this would not diminish the ability to 'read' the building as a former farmhouse owing to its vernacular architecture and rural setting.

Overall the proposed development would only have a minor effect of the setting of the listed building.

In spite of a number of changes to the scheme which address a lot of the Conservation Officer's comments, there is an element of harm which is identified in the first set of comments that remains unresolved in the second and third sets of comments. This is that the proposal, by virtue of the new access, enlargement of the building and division of the curtilage would result in some harm to the overall context of the site and hence the setting of the listed building. As described above, the overall harm would be minor and the Conservation Officer has concluded that this residual harm is less than substantial.

As set out above no single element of change would give rise to identifiable harm but cumulatively the changes would evolve the development of the site in a way which is not reflective of the traditional way in which a farm would develop. In this case that process began with decisions made in the 1980s and 1990s to allow new and replacement buildings, including the building now being considered. Consequently, with the existing buildings and site layout as the starting point, the degree of change, or harm, is considered to be at the lower end of 'less than substantial', if it were considered to be on a sliding scale.

Although the degree of harm is less than substantial it still carries considerable importance and weight in the balancing exercise. The NPPF advises that such harm should be weighed against the public benefits of the proposal and the reasons given should be clear and convincing.

The applicant would derive most benefit from the proposal but there would still be some public benefits. The building works would create a small input to the economy; the proposal would add a good quality dwelling to the housing stock when otherwise the building would be underused; and its renovation would improve the environmental credentials of the existing building. Given the scale of the development these benefits are only modest but so, too, is the degree of harm to the setting of the listed building. On balance the public benefits are considered to outweigh the harm in this case.

Other matters

The western part of the site is in flood zone 3 and this includes the land required for access and parking but not the site of the enlarged dwelling, which is in flood zone 1. Access and egress in the event of a flood are important considerations and on their own would be sufficient to justify refusing an application even where the dwelling itself is not at risk. In this instance, however, there is already an occupied building on the site which represents a fall-back. Moreover, the existing access is also at risk of flooding and therefore the proposal would not result in any increase in the level of risk to anyone occupying the building.

Application of the sequential test is not necessary in this case because the proposal is for householder development, which is classed as minor for the purposes of flood risk, and change of use. To assess the risk to the access and parking area a Flood Risk Assessment has been provided. This concludes that the risk of flooding from the ordinary watercourse (which is the main source of risk) is low to moderate. In respect of the driveway it recommends that the driveway should be permeable or discharge into the adjacent ordinary watercourse where possible. It also recommends that the occupants of the dwelling sign up to EA flood alerts which would allow them time to move their cars if they were considered to be at risk. These measures and some precautionary measures for the dwelling which are set out in the FRA can be secured by condition.

There are a number of trees around the entrance and along the western boundary. Three trees would be removed as part of the development but none are of sufficient quality to be considered as a valid constraint on the development. Subject to compliance with the submitted method statement and tree protection plan the impact on trees is acceptable. Details of new planting can be secured via a landscaping scheme.

The proposal includes a change of use of part of the adjacent field to garden. Although this is a large area of land the new boundary would be a continuation of the rear boundary line of four properties to the west of the site and therefore would not appear out of character with the area or disproportionate. Furthermore it would help to focus the outlook and activity away from the listed building. Details of the boundary treatment can be secured as part of a landscaping scheme.

Because the building is within the curtilage of a listed building it currently has few permitted development rights and the same is true of the surrounding land. In the interests of the ongoing protection of the setting of the listed building it is reasonable to remove permitted development rights for certain enlargements of the dwelling and development within the new curtilage.

CONCLUSION

The proposed alterations to the building and the landscaping of the site would result in a high quality development. While there would be a small degree of harm to the setting of Treaslake Farm, this would be balanced by the public benefits arising from the development and therefore it is concluded on balance that the proposal is acceptable.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. Notwithstanding the approved plans, no development to construct the driveway and parking area hereby permitted shall take place until details of its construction and drainage have been submitted to and approved in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.
(Reason - To ensure that the design is compatible with the setting of Treaslake Farm and does not increase flood risk in accordance with Policies EN9 - Development Affecting a Designated Heritage Asset and EN22 - Surface Run-Off Implications of New Development of the East Devon Local Plan 2013-2031.)
4. Notwithstanding the approved plans, 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 and the setting of Treaslake Farm in accordance with Policies D1 - Design and Local Distinctiveness and EN9 - Development Affecting a Designated Heritage Asset of the 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 the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the East Devon Local Plan 2013-2031.)

6. Development shall be carried out in accordance with the recommendations of the Flood Risk Assessment prepared by Ashfield Solutions Group (reference 115820-F01 dated 02/07/2020).

(Reason - To ensure that the risks of flooding are appropriately mitigated in accordance with Policy EN21 - River and Coastal Flooding of the East Devon Local Plan 2013-2031.)

7. Development shall be carried out in accordance with the Arboricultural Method Statement and Tree Protection Plan prepared by Advanced Arboriculture dated 1 July 2020.

(Reason - In the interests of 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.)

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 windows, doors, rooflights or other openings other than those shown on the plans hereby permitted shall be formed in the north west elevation of the building.

(Reason - To protect the setting of Treaslake Farm in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset of the East Devon Local Plan 2013-2031.)

9. Notwithstanding the provisions of Schedule 2 Part 1 Classes A, AA, B and D 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 building shall not be enlarged by enlargement of the roof or by construction of an extension beyond any wall forming part of the north west or north east elevations of the building without the prior express consent of the Local Planning Authority.

(Reason - To protect the setting of Treaslake Farm in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset of the East Devon Local Plan 2013-2031.)

10. Notwithstanding the provisions of Schedule 2 Part 1 Class E 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) no development of a type described in Class E shall be carried out forward of the north west or north east elevations of the dwellinghouse without the prior express consent of the Local Planning Authority.

(Reason - To protect the setting of Treaslake Farm in accordance with Policy EN9 - Development Affecting a Designated Heritage Asset 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.

Informative:

In condition 10 'forward of' has the same meaning as in E.1 (c) of Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and as explained in the Permitted Development Rights for Householders Technical Guidance, MHCLG September 2019.

Plans relating to this application:

| | | |
|------------|----------------------|----------|
| 1925-02 B | Proposed Floor Plans | 23.12.20 |
| 1925-01 B | Proposed Site Plan | 23.12.20 |
| 1925-03 B | Proposed Elevation | 23.12.20 |
| 1925-SLP A | Location Plan | 23.12.20 |

List of Background Papers

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

Letter to MP's

Re: Prior Approval process: Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015)

I am writing on behalf of, and at the request of, East Devon District Council's Planning Committee.

As you are aware under Part 3 of Schedule 2 of the above GPDO 2015 Order, various changes of use of buildings are permitted via a Prior Approval process that does not generally allow consideration of Local Plan or Neighbourhood Plan policies and limits the matters that the local planning authority can consider. The legislation also restricts the local planning authority to making a decision with 56 days otherwise the proposed is deemed to be granted.

The legislation allows agricultural buildings in very rural, isolated and often sensitive locations to be converted to dwellings, shops, hotels and other uses with minimal assessment by the local planning authority and via a process that the local planning authority and wider public find less than democratic.

As a planning committee for a very rural planning authority we feel we have lost necessary control over some developments. The planning system is supposed to be plan-led yet this legislation often over-rides consideration against local plan policies and neighbourhood plan policies. The result of this is that local communities, despite engaging in the local plan process, and in many cases spending years and many thousands of pounds preparing a neighbourhood plan for their area, find themselves with development being granted under this Prior Approval process contrary to local and neighbourhood plan policies.

The process has resulted in increases in travel and use of private transport in unsustainable rural areas, making it very difficult to achieve our carbon neutral target for the District. Inhabitants of these countryside villages and hamlets are understandably very concerned that their Neighbourhood Plans and the East Devon Local Plan, which have been years in the making, are rendered ineffective, and that Central Government is dictating development, often outside of the Built Up Area Boundaries to the benefit of individuals only and at the expense of wider objectives.

Examples of such situations are:

- Having to grant consent for the conversion of an agricultural building to a shop in the small hamlet of Combe Raleigh against the wishes of all of the residents and resulting in a shop that will encourage people to drive there from established settlements with the associated traffic movements and disturbance to residents;
- Having to grant consent for the conversion of employment buildings to residential use undermining local employment opportunities;

- Having to grant consent for agricultural buildings to be used as hotels in unsustainable locations undermining our existing hotels and guest houses in our main towns;
- Having to grant consent for a chicken house to a shop in a very rural area undermining our already struggling town centres.

As Chair of the Planning Committee I would ask you all to raise these concerns with the Rt Hon. Robert Jenrick the Secretary of State for Housing, Communities and Local Government

DRAFT