

**Agenda for Planning Committee  
Monday, 14th June, 2021, 10.00 am**



**Members of Planning Committee**

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

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**Venue:** Blackdown House and online via the Zoom app

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(or group number 01395 517546)

Issued: Thursday, 3 June 2021

**Important** - temporary arrangements are in force which will enable face to face meetings to take place in compliance with legislation, whilst providing alternative participation opportunities to maintain a Covid-19 safe environment.

**Please do not attend Blackdown House unless you are a voting member of Planning Committee or a registered public speaker on a planning application who has received confirmation that you are permitted to attend Blackdown House.**

**Non Committee Members and registered public speakers will still be able to attend virtually online via Zoom, and 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

Although a limited number of public speakers will be able to have access to the public gallery at Blackdown House to address the Committee via a laptop connected to zoom, members of the public who have registered to speak will be strongly encouraged, whilst Covid-19 restrictions remain in place, to join the meeting via the zoom appointment that will have been sent to them.

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 under agenda item 1 – speakers' list and revised order for the applications.

**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 7<sup>th</sup> June 2021 up until 12 noon on Thursday 10<sup>th</sup> June 2021 by leaving a message on 01395 517525 or emailing [planningpublicspeaking@eastdevon.gov.uk](mailto:planningpublicspeaking@eastdevon.gov.uk).

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

Speakers' list and revised order for the planning applications.

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 required the meeting will be adjourned at approximately 1pm for a 30 minute break

6 **20/2518/FUL (Minor) - DUNKESWELL AND OTTERHEAD** (Pages 6 - 19)

Hill View Nursery, Dunkeswell, Honiton EX14 4SZ.

7 **21/0077/VAR (Minor) - DUNKESWELL AND OTTERHEAD** (Pages 20 - 25)

Valley Farm, Sheldon, Honiton EX14 4QX.

8 **20/1086/FUL (Minor) - TALE VALE** (Pages 26 - 46)

Talewater Mill, Talewater, Talaton, Devon EX5 2RS.

9 **21/0490/FUL (Minor) - WOODBURY AND LYMPSTONE** (Pages 47 - 57)  
Land adjacent to 21 Strawberry Hill, Lympstone.

10 **21/0908/VAR (Minor) - WOODBURY AND LYMPSTONE** (Pages 58 - 66)  
Bridge Farm, Stony Lane, Woodbury Salterton, Exeter EX5 1PP.

11 **20/2901/FUL (Minor) - NEWTON POPPLEFORD AND HARPFORD** (Pages 67 - 78)  
Grange Farm, Newton Poppleford, Sidmouth EX10 0BY.

12 **21/0497/FUL (Minor) - SIDMOUTH SIDFORD** (Pages 79 - 84)  
4 Ridgeway Mead, Sidmouth EX10 9DT.

[Decision making and equalities](#)

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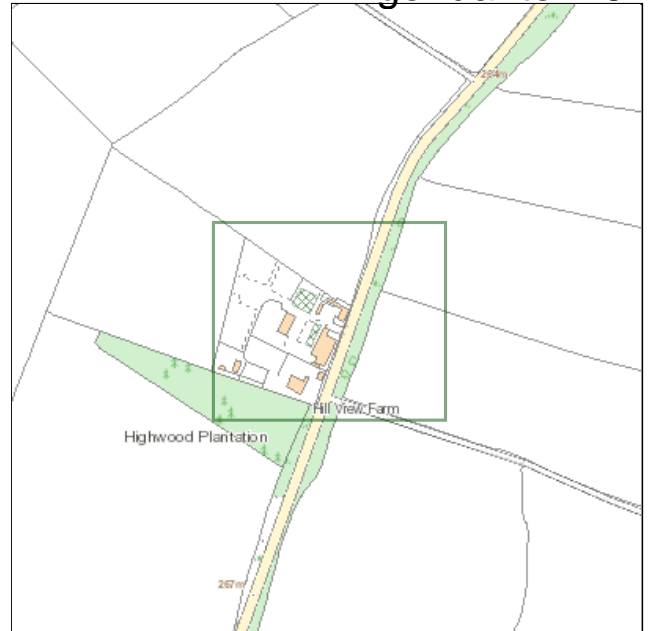
**Ward** Dunkeswell And Otterhead

**Reference** 20/2518/FUL

**Applicant** Donna Gant

**Location** Hill View Nursery Dunkeswell Honiton EX14 4SZ

**Proposal** Conversion, alteration and enlargement of storage building to form dwelling to replace mobile home granted certificate of lawfulness under ref. 18/1204/CPE



**RECOMMENDATION: Approval with conditions subject to a legal agreement/unilateral undertaking**



		<b>Committee Date: 14<sup>th</sup> June 2021</b>
<b>Dunkeswell And Otterhead (Dunkeswell)</b>	<b>20/2518/FUL</b>	<b>Target Date: 14.01.2021</b>
<b>Applicant:</b>	<b>Donna Gant</b>	
<b>Location:</b>	<b>Hill View Nursery Dunkeswell</b>	
<b>Proposal:</b>	<b>Conversion, alteration and enlargement of storage building to form dwelling to replace mobile home granted certificate of lawfulness under ref. 18/1204/CPE</b>	

**RECOMMENDATION: Approval with conditions subject to a legal agreement/unilateral undertaking**

#### **EXECUTIVE SUMMARY**

**This application is brought before the Committee in view of the difference of opinion between officers and the ward members.**

**The proposed development involves the conversion, and modest enlargement, of an existing single storey office/storage building at Hill View Nursery - a horticultural nursery enterprise and smallholding located to the east of Dunkeswell within the Blackdown Hills Area of Outstanding Natural Beauty (AONB) - to form a two bedroom dwelling with attached work office space.**

**Directly adjacent to the site is a relatively modern bungalow, subject of an agricultural occupancy restriction, which was originally proposed and built by the applicant for occupation in conjunction with the operation of the business. However, it has relatively recently been transferred to another party.**

**A mobile home owned by the applicant, with the benefit of a certificate of lawfulness granted in 2019, is positioned adjacent to the northern boundary of the nursery while an unauthorised mobile home positioned elsewhere within the site, and currently occupied by the applicant, is the subject of a live enforcement notice requiring its removal. The compliance period runs until October this year.**

**The current application scheme is identical to a previous proposal, subject of application ref. 19/1299/FUL (albeit that this involved the creation of a live-work unit), and is designed to provide a permanent means by which the applicant is able to lawfully remain living at the site.**

The previous application was refused in February 2020 on the basis of two main issues; first, that the scheme involved an excessive proportion of living accommodation over work/employment floor space, contrary to one of the key criteria set out in Policy LE1 of the Dunkeswell Neighbourhood Plan and, secondly, that the development, in amounting to the provision of a rural worker's dwelling to be considered against the provisions of Policy H4 of the East Devon Local Plan, failed this assessment owing to the lack of any proven essential functional need for a second rural worker's dwelling at the nursery.

The comparatively recent sale of the tied dwelling and the availability of the lawfully sited mobile home to provide an alternative means of meeting such a need were also considered to represent factors weighing against what would have otherwise resulted in the provision of a third residential unit at the site.

These findings were largely supported by the Inspector in dismissing a subsequent appeal against the decision in October 2020. However, in so doing, he also highlighted conflict with Local Plan Policy D8 in relation to the criterion that development should be located close to a range of accessible services and facilities to meet residents' everyday needs, citing the distance of the site from Dunkeswell and the lack of adequate non-car means by which to access the limited services and facilities that it provides.

The key difference between the current application proposal and that previously considered and dismissed at appeal is the offer by the applicant to agree to remove the mobile home the subject of the certificate of lawfulness relating to the lawfully sited mobile home so as to maintain the number of residential units on the site, without adding to it, in perpetuity.

To this end, the submission is accompanied by a draft of a unilateral undertaking that sets out provisions and obligations to this effect that, at the time of writing, is undergoing the scrutiny of the Council's Legal team.

The undertaking also seeks to ensure that the applicant does not use permitted development rights in relation to the use of the site for the stationing of any further mobile homes beyond the expiry of the time period for compliance with the enforcement notice relating to the unauthorised mobile home occupied by the applicant. This would be intended to prevent the potential siting of such units - using temporary permitted use rights - in conjunction with the carrying out of the proposed development, if approved, with the prospect of the unauthorised mobile home remaining in place indefinitely. Such a scenario would be contrary to the long-held objective of finally securing its removal.

Provided that appropriate obligations that meet these objectives can be secured, in the circumstances it is considered that the substitution of a mobile home for a permanent dwelling of acceptable size, scale, design and appearance, on a more favourable siting from a landscape impact perspective, would be acceptable.

Approval is therefore recommended subject to an appropriate legal mechanism being agreed and completed that secures the necessary obligations set out above. While there is a clear understanding of the parish council and ward members'



**position in this matter, on the basis that this can be achieved, and having regard to the visual benefits of replacing the mobile home with a permanent building in a less visually apparent position on the site, it is considered on balance that the proposal would be acceptable.**

## **CONSULTATIONS**

### **Local Consultations**

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

The Parish Council cannot support this application and stand by their comments made previously on applications 18/1204/CPE, 19/1299/FUL and Appeal A) Ref: APP/U1105/W/20/3249070. The Councillors see very little difference between this application and the previous applications & subsequent Appeal, all of which were refused. Council believe this is asking for the same thing in a different way.

Comments from application 19/1299/FUL -

19/1299/FUL - Comment Date: Fri 19 Jul 2019

Comments: The Parish Council wish to object to this application, permission was granted for workers accommodation as in application 11/0233/RES This has since been constructed and has until recently been put up for sale. The Council understand that this property has now been removed from sale. Councillors also understand that part of the original building is being rented out & presume this has created the need for more accommodation. It is the Council's view that is over development on this site.

The accommodation in relation to the Workspace shown on the plans appears not to be equal to or greater than the residential space, this is contrary to the Neighbourhood Plan LE1 (ii)

#### **Dunkeswell and Otterhead - Cllr Colin Brown**

I can see very little difference between this application and the appeal on this site 20/00019/REF which was refused, therefore I cannot support.

Further comments:

This application has been refused twice before on appeal and I cannot see how it can now be changed to approval therefore still object.

#### **Dunkeswell and Otterhead - Cllr David Key**

There seems to be some misleading in previous applications and so I totally object to the present application.

Further comments:

I strongly object to this application as it has a history of failed appeals.

The bungalow was built for the applicant/owner with an agricultural tie to be used and Tied to the business, we now see the bungalow is no longer attached to the business and owned by a previous partner as share settlement, hopefully he is employed in

Agriculture if he is living illegally. As to regards the mobile home being changed this is after the applicant has been living in it and therefore the applicant can remain in it as it has a certificate of lawfulness. There should be no further building on this site as mentioned by the inspectors previous decisions of refusal. I strongly object to the application.

### **Technical Consultations**

None.

### **Other Representations**

No representations regarding the application proposal have been received from any interested third parties.

### **Planning History**

19/1299/FUL - Change of use and extension of storage building to form a live-work unit (Full). Refused 24/2/20. Joint appeal (with enforcement notice) dismissed 20/10/20.

18/1204/CPE - Certificate of lawfulness for use of land for the siting of a caravan and its residential use ('caravan 1'). (Certificate of Lawfulness of Existing Use). Approved 29/5/19.

17/2165/FUL - Retention of temporary workers accommodation (Full). Refused 29/1/18.

17/0381/FUL - Replacement polytunnel (Full). Approved 27/4/17.

17/0382/FUL - Replacement polytunnel (Full). Approved 27/4/17.

16/0076/FUL - Retention of agricultural store used as part of nursery activities, incorporating poultry shelter (Full). Approved 26/10/16.

11/0233/RES - Erection of single storey agricultural workers dwelling (Reserved Matters). Approved 18/4/11.

07/3172/OUT - Erection of single storey agricultural workers dwelling (Outline). Approved 10/6/08.

### **POLICIES**

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

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

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

EN5 (Wildlife Habitats and Features)

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

EN22 (Surface Run-Off Implications of New Development)

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)

Made Dunkeswell Neighbourhood Plan 2014-2031 Policies

NE1 (Retaining, Conserving and Enhancing the Natural Beauty of our Parish)

BE1 (Maintaining the Built Character through High Quality Design)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

## **ANALYSIS**

### **Site Location and Description**

Hill View Nursery is a mixed use site located on the Blackdown Hills plateau within the designated Blackdown Hills Area of Outstanding Natural Beauty (AONB) approximately 1 km. to the south east of the Highfield estate at Dunkeswell. It sits immediately alongside the Class 3 road that connects Honiton and Smeatharpe just to the north of Highwood Plantation.

Predominantly focused around a horticultural nursery enterprise, the business operated from the site has been established for a number of years, growing and selling plants and carrying out landscaping projects for clients, in relation to which the site also operates as a base. However, it also includes an agricultural side in the form of the keeping of a number of free range chicken.

The complex houses a number of structures of differing Planning status reflective of a relatively complicated history. Principal among these are the following:

1. A relatively recently constructed bungalow, subject of an agricultural occupancy condition (applications 07/3172/OUT and 11/0233/RES refer), positioned

alongside the road frontage and immediately to the north of the entrance to the site off the adjacent highway. Originally within the ownership of the applicant and constructed in the light of the Council's acceptance of the case for an essential functional need for a dwelling from which to operate the nursery and smallholding, it has within the past couple of years been transferred to the applicant's former partner as part of a separation settlement.

2. A residential mobile home (with no occupancy restriction), positioned alongside the bungalow, that is the subject of a certificate of lawfulness granted in May 2019 (application 18/1204/CPE refers). It is understood that this accommodation is currently being let to a tenant with no connection to the applicant or the nursery.
3. A single storey office/storage building, formerly a dairy, positioned just inside, and to the south of, the site entrance. This building has recently been the subject of a proposal (application 19/1299/FUL refers) for conversion and enlargement to form a live-work unit for occupation by the applicant. However, the application was refused by the Council, under delegated powers, and subsequently dismissed at appeal. (This is discussed in greater detail in the next section of the report.)
4. A group of now dilapidated polytunnels adjacent to the road frontage of the site to the south of the entrance.
5. A dilapidated mobile home between the polytunnels and the site boundary used for storage purposes. Although its siting is now lawful, its use for residential purposes has previously been enforced against.
6. A recently-constructed replacement polytunnel alongside the southern boundary with a neighbouring residential property, Hill View Farm (application 17/0382/FUL refers).
7. A barn, positioned centrally within the site, used for the storage and maintenance of equipment used partly in conjunction with the operation of the nursery and landscaping businesses as well as for agricultural purposes in part.
8. An unauthorised residential mobile home, positioned alongside the barn, which is currently occupied by the applicant. An enforcement notice, issued in February 2020, requires its removal from the land, along with all associated domestic paraphernalia, materials and debris, and the reversion of the land back to agricultural use.

The boundaries of the complex with the surrounding open countryside to the north and west, and the road to the east, are defined by established hedges and trees.

### **Planning Background**

At this point in the report, it is thought that a summary of the relevant background history of the site - including, in particular, the Inspector's main findings in the recent

appeal decision in relation to application 19/1299/FUL - as a means of setting the context for the current application proposal, would be appropriate.

The site has a lengthy and relatively complex history, principally involving the unauthorised stationing and residential use of mobile homes that have over the past years been occupied by both the applicant and, at various times, workers at Hill View Nursery.

However, in the interests of both brevity and clarity, the most relevant facts - including the current situation regarding lawful and unlawful development at the site - are as follows.

The enforcement notice relating to the unauthorised mobile home (no. 8 in the list in the preceding section of the report) at the site requires:

- a. The permanent cessation of the use of land for residential purposes and the return of the land to agricultural use.
- b. The permanent removal of the mobile home used for residential purposes from the land.
- c. The permanent removal from the land of all domestic paraphernalia.
- d. The permanent removal from the land of all materials and debris associated with compliance with 1-3 above.

The time period for compliance, set out within the notice, was 9 months.

In September 2020, an appeal lodged against the serving of the notice - solely on the ground that the period for compliance was unacceptable - was heard alongside a separate appeal against the Council's refusal of application 19/1299/FUL for the scheme already described; namely, the conversion and extension of the office/storage building on the site (i.e. no. 3 in the list in the preceding section of the report) to form a live-work unit for the applicant to live in instead of the unauthorised mobile home to which the enforcement notice relates.

Although both appeals were dismissed, the Inspector varied the time period for compliance with the enforcement notice to the effect that this period is extended until 20th October 2021.

The unauthorised mobile home remains in place at the present time.

The Council's reasons for refusal of application 19/1299/FUL were as follows:

1. In the opinion of the Local Planning Authority, the proposal is tantamount to the provision of a second dwelling for occupation in conjunction with the operation of Hill View Nursery. However, no proven essential functional need for a further person to be housed permanently at this unit has been demonstrated. In addition, the Local Planning Authority is not satisfied that there are no alternative options available for meeting any residential need that may exist. The proposal is therefore contrary to the provisions of Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the adopted East Devon Local Plan 2013 - 2031.

2. The proposed employment floor space shown on the submitted drawing would not be equal to or greater than that of the proposed residential living space. As such, the proposed development would be contrary to the provisions of Policy LE1 (Live-work Workspace) of the made Dunkeswell Neighbourhood Plan 2014 - 2031.

Although essentially finding largely in favour of the appellant in regard to the second of these grounds for refusal on account of the limited degree of conflict with Neighbourhood Plan Policy LE1, among the Inspector's principal findings in regard to the first reason were the following:

1. Although not cited within the ground for refusal, the Inspector gave weight to the provisions of Local Plan Policy D8 (Re-Use of Rural Buildings Outside of Settlements) that had been referenced within the officer delegated report owing to the proposal involving the conversion and enlargement of a rural building.

Whilst accepting that the proposal met with the majority of the criteria within the policy, he found that it failed when considered against the requirement that development be located 'close to a range of accessible services and facilities to meet the everyday needs of residents'. In his view, 'the site is accessed from a long, straight section of a busy main road which has no footpaths alongside it. There are no everyday services within what I consider would be a safe walking distance and reaching the nearest facilities within the village of Dunkeswell without the use of a vehicle would require a challenging cycle ride or an even more challenging walk even to get to the nearest bus stop. This in my view is a remote, isolated location which is not easily accessible to the services needed to live here as required by LP Policy D8. In such locations, the (National Planning Policy) Framework (NPPF) at paragraph 79 states that planning policies and decisions should avoid isolated homes unless a number of circumstances apply.'

2. In relation to Local Plan Policy H4, the Inspector principally took into account the matter of the availability of existing alternative accommodation at the site, having particular regard to both the tied bungalow and the lawfully sited mobile home.

In so doing, and giving little weight to the appellant's personal circumstances surrounding the disposal of the bungalow, he found that 'some of this accommodation is either currently in the appellant's control or was until recently and that must be of significant weight in my decision. The overall aim of the relevant policies within the development plan is not to enable the gradual growth of a cluster of residential properties in a location that is isolated from main settlements.'

The Inspector, in therefore essentially acknowledging that the proposal amounted to the provision of a second rural worker's dwelling on the site, also referenced the lack of evidence provided to demonstrate the nature of the ongoing business activity or that its functional needs were the same as at the time of the application made for the tied dwelling some years ago.

In concluding therefore, he found that the site was not an appropriate location for the proposed residential accommodation and that it failed to comply with Local Plan Policies D8 and H4 or the advice set out within the NPPF to avoid the development of isolated homes in the countryside. He also factored in the limited conflict with the

provisions of Dunkeswell Neighbourhood Plan Policy LE1 (Live-Work Workspace) on account of the inadequate proportion of work to live space within the development itself.

However, among the observations made by the Inspector in allowing for the extended time period for compliance with the enforcement notice requiring the removal of the unauthorised mobile home from the site was that one option for the provision of alternative accommodation for the applicant - and her son - would be the existing lawful mobile home within her ownership.

Although not explicitly set out as a factor in allowing the extended compliance period, it is now being used by the applicant and her agent as the basis upon which to argue a case in favour of the current application proposal.

The present situation therefore is that there is both an unauthorised mobile home, required to be removed from the site by 20th October 2021, and a separate, lawfully sited mobile home (with no occupancy restriction) on the site.

Although the occupation of the adjacent tied bungalow is understood to be in compliance with the occupancy restriction, it is not known if there is any connection to Hill View Nurseries.

### **Proposed Development**

The application proposal now before the Council is essentially very similar to that to which application 19/1299/FUL related. However, it relates to the creation of a dwelling instead of a live-work unit.

However, unlike that proposal, instead of the development being intended as an additional residential unit on the site, it is now proposed as a 'one for one' replacement for the lawfully sited mobile home.

It therefore recognises the fundamental policy objection, upheld by the appeal Inspector, to the creation of any further additional residential units at the site without appropriate justification and, to this end, it is proposed that a S.106 Agreement/unilateral undertaking be agreed as an appropriate legal mechanism to secure the removal of the mobile home the subject of the certificate of lawfulness (ref. 18/1204/CPE), in effect in exchange for a grant of planning permission. The implications arising from this would be to forego all rights, in perpetuity, for the stationing of a mobile home on the land to which the certificate relates and the removal of the (currently) lawfully sited mobile home.

At the time of preparing the report, a submitted draft of this document, and the wording of the obligations set out therein, was undergoing the scrutiny of the Council's Legal team.

As per the proposal subject of application 19/1299/FUL, the scheme involves the conversion of the building (referred to in point 3 above) to form a two bedroom unit of residential accommodation together with the addition, at its southern end, of a subservient timber framed single storey extension to provide a 'work office'.

The submitted details show, in addition to the two bedrooms, an open plan combined kitchen, living and dining area and a bathroom.

It is intended that the walls of the existing building would be over clad with vertical timber boarding while the present asbestos roof sheeting would be replaced with stainless steel metal cladding. Various windows and doors would also be replaced with new equivalents in the front (North West) elevation while new windows and a door would be introduced to the rear elevation.

The present building measures 12.7 metres in width by a depth of 5.9 metres with a roof ridge height of 4.25 metres. The proposed extension, which would exhibit the same external wall and roof finishes, would measure 3.8 metres in width by a depth of 5.7 metres with a roof ridge height of 4 metres.

### **Considerations/Assessment**

The main issues for consideration are the principle of development and visual impact.

#### **Principle**

The main issue that is material to consideration of the proposal in this case relates to the acceptability (or otherwise) of the principle of the development having regard to the site history and, in particular, the findings of the appeal Inspector in his dismissal of the appeal against the refusal of application 19/1299/FUL, together with the extent to which any other material considerations may weigh in favour of a different stance now being taken.

In this regard, the willingness of the applicant to forego, in perpetuity, the rights conferred by the certificate of lawfulness for the use of the land within her ownership for the siting of a mobile home with unrestricted occupancy - as a means of avoiding a situation where a grant of planning permission could otherwise result in two residential units on the site, and would therefore again in all likelihood be deemed unacceptable - is thought to be wholly integral to any prospect of acceptance of the application scheme.

Subject to the necessary obligations being incorporated within a unilateral undertaking, or whatever legal mechanism may be necessary to achieve the same ends, it is considered that a sympathetic conversion of an existing building at the site would be preferable to the ongoing presence of a mobile home in visual terms, all the more so given the respective impacts of both upon the immediate area.

#### **Visual Impact**

Whilst the building proposed for conversion is set immediately behind an established hedged roadside boundary, which would continue to screen it from view from the highway, the lawfully positioned mobile home is rather more visually prominent in such views, being set further in to the site from the road and positioned adjacent to a hedge along its northern boundary that, although including taller trees, is generally less thick



and opens the unit up to views during the winter months, in particular, when the level of screening by vegetation is reduced.

It is also acknowledged that a mobile home is a more transient form of residential accommodation, the permanent retention of which, under ordinary circumstances, would usually be resisted, such as in cases where temporary rural workers' dwellings are permitted or where there is specific justification for such development on a temporary basis pending the formulation of alternative proposals for more permanent buildings or structures to fulfil the same purpose. In the majority of cases, the provision of mobile accommodation on a permanent basis is rarely encouraged.

## **Balance and Conclusion**

In the circumstances therefore, and subject to an appropriate legal mechanism being agreed and completed to secure the removal and to cease occupation of the mobile home as a dwelling, it is considered that the principle of the proposed development - on the basis of it being a 'one for one' replacement for the siting of the mobile home - would be acceptable.

In this regard, while the objections raised by the parish council and the ward members are duly acknowledged, they were received prior to discussions with the agent and the subsequent submission of the draft unilateral undertaking. As such, the differences between this proposal and that subject of application 19/1299/FUL described in the foregoing narrative will not necessarily have been evident at that stage.

However, it is considered that a set of appropriately-worded obligations can be provided and agreed that will achieve the objective of ensuring that the presence of only one residential unit on the site (excluding the now separate tied dwelling) is maintained in perpetuity.

The parish council's further observations relating to the proportion of work floor space to residential floor space within the development, while duly acknowledged, are not material to consideration of this revised proposal since, unlike the scheme submitted under application 19/1299/FUL, it does not expressly involve the provision of live-work development.

In terms of other material considerations, there are not thought to be any particular matters of concern. The single storey form and overall scale of the development would be relatively modest such that it would not detract from the rural landscape character or landscape or scenic beauty of the surrounding AONB, a point acknowledged by the Inspector in his assessment of the previous appeal scheme.

Furthermore, there are no other issues in relation to matters such as drainage, neighbour amenity impact, effect upon wildlife interests, access or parking when considered against the presence of the lawful mobile home and the starting point for assessment of the proposal that it presents.

It is also of significance that the submitted draft unilateral undertaking also contains obligations that would surrender the use of relevant permitted development rights set out in the Town and Country Planning (General Permitted Development) Order relating

to the temporary use of any land, within the entire nursery site, for the provision or siting of any other mobile home/unit. The purpose of this would be to prevent a potential scenario from arising whereby temporary use rights could be claimed for the ongoing retention of the present unauthorised mobile home - currently being occupied by the applicant - for occupation beyond the expiry of the compliance period of the enforcement notice in conjunction with the carrying out of the proposed development, if approved.

In the event of such a situation occurring, the possible scenario could be that the unauthorised mobile home remains in place indefinitely in addition to the lawfully sited mobile home; a situation that the Authority would expressly wish to prevent in order to achieve the longstanding objective of securing the removal of the former.

Subject therefore to the legal mechanism being appropriately worded to achieve these objectives, it is considered that the proposal is acceptable.

### **RECOMMENDATION**

APPROVE, subject to an appropriate legal agreement to ensure that the existing lawful mobile home on the site (granted under certificate of lawfulness granted under ref. 18/1204/CPE) be removed with the residential occupation ceased, together with the removal of permitted development rights relating to the temporary use of the site for the stationing of mobile homes, and 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. No development above foundation level shall take place until a schedule of materials and finishes to be used for the external walls and roof of the proposed development (including, where so required by the Local Planning Authority, the submission of samples of such materials and finishes) have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
(Reason - To ensure that the materials are sympathetic to the character and appearance of the area, which forms part of the designated Blackdown Hills Area of Outstanding Natural Beauty, in accordance with Strategy 46 (Landscape Conservation and Enhancement and AONBs) and Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013 - 2031.)

### **NOTE FOR APPLICANT**

Informative:

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

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

Plans relating to this application:

190033.DELAMA IN.04PP	Proposed Plans	Combined	19.11.20
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List of Background Papers

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

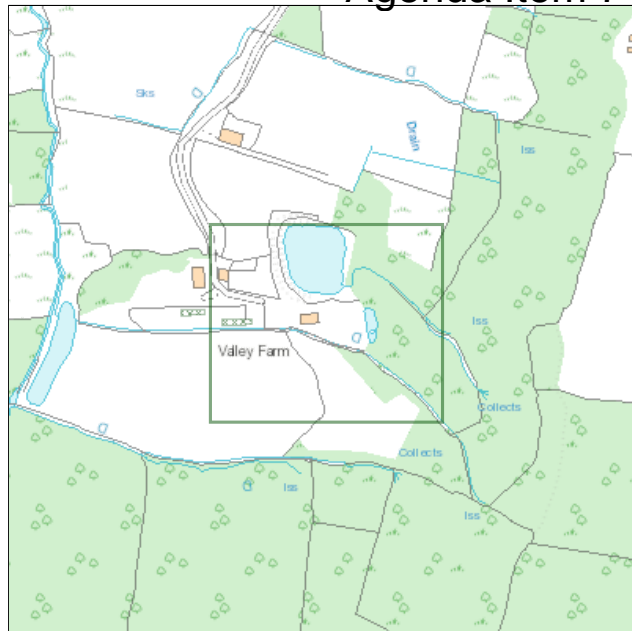
**Ward** Dunkeswell And Otterhead

**Reference** 21/0077/VAR

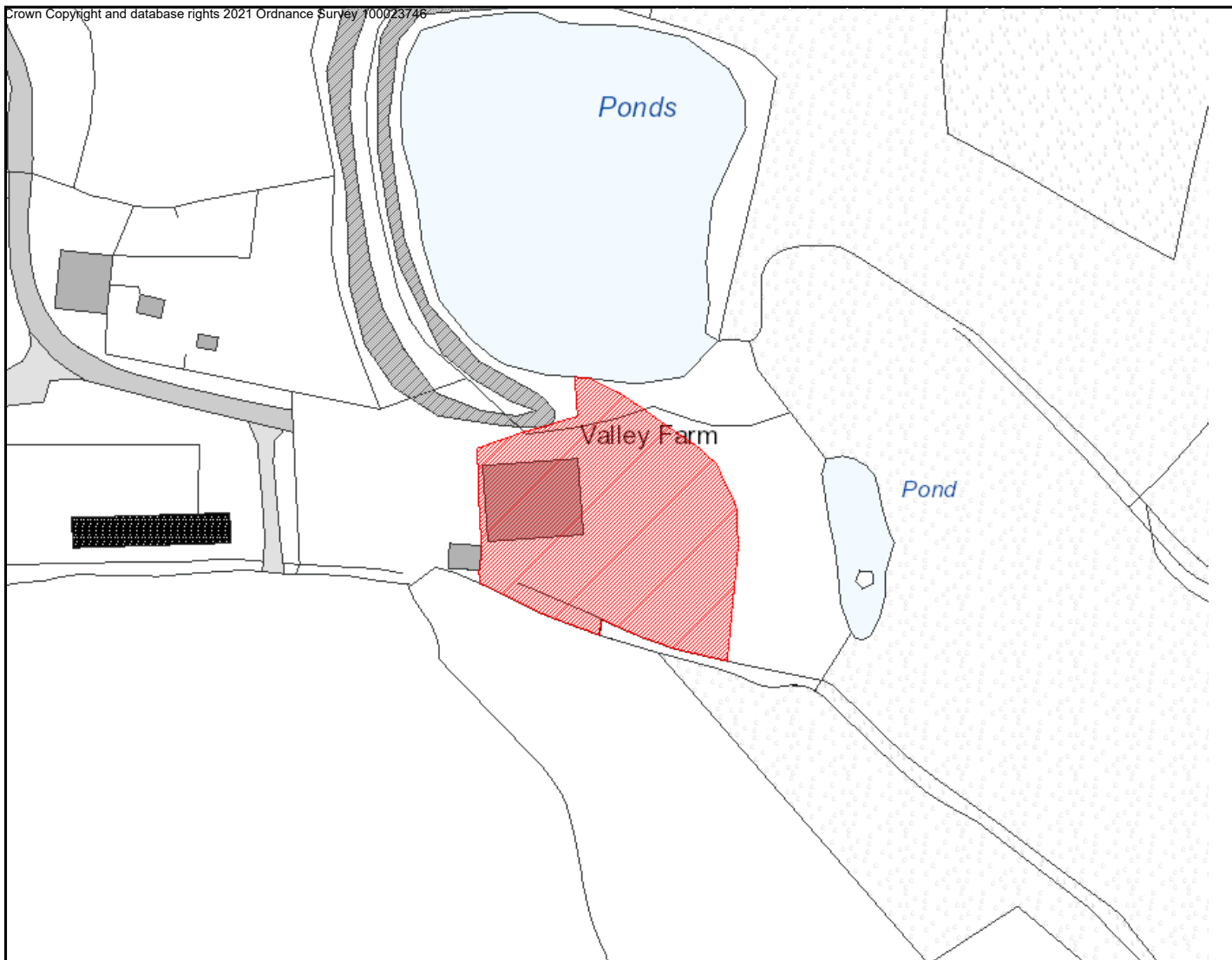
**Applicant** Doug and Sharon Trickett

**Location** Valley Farm Sheldon Honiton EX14 4QX

**Proposal** Removal of condition 2 (agricultural occupancy tie) of planning consent 06/2312/FUL (Agricultural Workers Dwelling)



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 14<sup>th</sup> June 2021</b>	
<b>Dunkeswell Otterhead (Sheldon)</b>	<b>And</b>	<b>21/0077/VAR</b>	<b>Target Date: 09.03.2021</b>
<b>Applicant:</b>	<b>Doug and Sharon Trickett</b>		
<b>Location:</b>	<b>Valley Farm Sheldon</b>		
<b>Proposal:</b>	<b>Removal of condition 2 (agricultural occupancy tie) of planning consent 06/2312/FUL (Agricultural Workers Dwelling)</b>		

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This matter is brought before the Committee in view of a difference of opinion between officers and the commenting ward member.**

**The application seeks the removal of an agricultural occupancy condition (an agricultural tie) attached to planning permission ref. 06/2312/FUL, granted in 2007, relating to the construction of a dwelling at Valley Farm, Sheldon.**

**It follows the recent grant of a certificate of lawfulness (ref. 20/1191/CPE) relating to occupation of the property in breach of the agricultural occupancy restriction for a period in excess of 10 years and is submitted to formally seek its removal from the relevant planning permission in the light of the issuing of the certificate.**

**Whilst it is clear that the dwelling has not been, or intended to be, offered for sale or rent to another rural worker in line with the provisions of Policy H5 of the Local Plan, given that it is now established that it has been occupied in an unrestricted manner for in excess of ten years, and the certificate of lawfulness has been issued to this effect, there is no justification for insisting that the building remained tied to occupation by people in agriculture.**

**It is simply the case that the property can now be lawfully occupied with no restriction. In practical terms therefore, there is no longer any such restriction that is capable of being enforced or used to justify application of the Policy H5 tests for its removal.**

**Moreover, as a result of the grant of the certificate of lawfulness, the unrestricted residential use of Valley Farm in breach of the agricultural occupancy condition is immune from any enforcement action. It is therefore the case that condition 2**

of planning permission 06/2312/FUL is no longer necessary or enforceable as it fails to meet the tests set out under paragraph 55 of the NPPF and the National Planning Practice Guidance.

The removal of the condition is therefore supported and approval is recommended.

## **CONSULTATIONS**

### **Local Consultations**

#### Dunkeswell and Otterhead - Cllr David Key

I object to the application as the development would not have been allowed if not for agricultural worker and also would increase value instead of becoming an affordable dwelling.

### **Technical Consultations**

None.

#### Other Representations

Two 'neutral' representations have been received.

#### Summary of Comments

1. Concerns over the amount of traffic that will be generated to the numerous residences being created at Valley Farm, causing a potential issue for livestock and horses crossing the access track at Shutes South.
2. Valley Farm has access rights for light traffic along the track but it is understood that permission is required from the track owners to increase its use.
3. Removal of the tie will not cause any inconvenience to normal operations or activity at Shutes Farm.

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
20/1191/CPE	Use of the property known as Valley Farm as a dwelling without compliance with an agricultural occupancy condition	CPE Approved	05.01.2021
06/2312/FUL	Agricultural workers dwelling	Approval with conditions	08.02.2007

## **POLICIES**

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

H4 (Dwellings for Persons Employed in Rural Businesses)

H5 (Occupancy Conditions on Rural Workers Dwellings)

### Government Planning Documents

NPPF (National Planning Policy Framework 2019)

## **Site Location and Description**

Valley Farm is a land holding around 22 acres in area that is located on the eastern slope of a valley to the east of Sheldon within the designated Blackdown Hills Area of Outstanding Natural Beauty.

It lies to the south of Shoots Lane, which connects Sheldon with Dunkeswell to the east, off which it is accessed via a private lane.

Land aside, the complex comprises a relatively modern main two storey four bedroom dwelling - to which this application relates - along with a separate building known as 'The Cottage', a number of outbuildings and a lake.

## **Background**

Planning permission was granted for the construction of the dwelling, in its present form, in 2007 (application 06/2312/FUL refers).

It was granted subject to a condition (no. 2) restricting occupancy to an agricultural worker (i.e. an agricultural tie) which stated as follows:

"The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or forestry, or a widow or widower of such a person, and to any resident dependants.

(Reason - The dwelling is justified only by agricultural need and should remain available for this purpose.)"

However, in January this year a Certificate of Lawfulness (CLEUD) for the use and occupation of the property in breach of the condition was granted (under application ref. 20/1191/CPE).

The CLEUD was granted by the Council on the basis that it was satisfied, on the balance of probability and having regard to the evidence provided, that the use and occupation of the property in breach of the agricultural occupancy condition had been occurring for a period in excess of ten years preceding the date of the application. It was therefore subsequently considered lawful for planning purposes as defined under Section 191 of the Town and Country Planning Act (the Act).

## **Proposed Development**

The current application, submitted under section 73 of the Act, seeks to follow this up by formally seeking the removal of the occupancy condition itself from planning permission 06/2312/FUL.

## **CONSIDERATIONS/ASSESSMENT**

The only issue for consideration is the acceptability of the removal of the condition restricting occupation to somebody in agriculture.

The provisions of Policy H5 (Occupancy Conditions on Rural Workers Dwellings) of the adopted East Devon Local Plan state that proposals to relax occupancy conditions or a planning obligation will only be permitted where it is demonstrable that economic circumstances have changed such that:

1. There is no long term functional need for the dwelling for a rural worker; and;
2. Satisfactory evidence has been provided that the dwelling has been offered for sale or rent with its occupancy restriction at a realistic price for a reasonable period of time, and no interest has been shown in its purchase or rent, unless the property is to be sold/ leased to a Registered Social Landlord.

The nature of the objection to the removal of the occupancy restriction raised by the commenting ward member essentially relates to these provisions.

However, whilst it is clear that the dwelling has not been, or is intended to be, offered for sale or rent to another rural worker, given that it is now established that it has been occupied in an unrestricted manner for a period in excess of ten years, and the certificate of lawfulness has been issued to this effect, there would clearly be no purpose in pursuing any insistence that it be marketed in this manner.

It is simply the case that the property can now be lawfully occupied with no restriction. In practical terms therefore, there is no longer any such restriction that is capable of being enforced or used to justify application of the Policy H5 tests for its removal.

Moreover, as a result of the grant of the Certificate the unrestricted residential use of Valley Farm in breach of the agricultural occupancy condition is immune from any enforcement action. It is therefore the case that condition 2 of planning permission 06/2312/FUL is no longer necessary or enforceable as it fails to meet the tests for conditions set out under paragraph 55 of the NPPF and the National Planning Practice Guidance.

Whilst the comments made by one of the interested third parties are acknowledged, they are not material to consideration of the proposal in this case. The reference made to the numbers of units at the Valley Farm site is assumed to relate to the main dwelling (to which this current application relates) plus the separate property known as 'The Bungalow' referred to above. A certificate of lawfulness (under ref. 20/1192/CPE) has also recently been granted to the applicants for the construction and use of this building as an independent dwelling.



## **RECOMMENDATION**

APPROVE subject to the following condition:

1. The development hereby permitted shall be carried out in accordance with the following plans submitted with the original planning permission ref. 06/2312/FUL:  
Drawing no. 244/01 Rev. A  
Drawing no. 244/02 Rev. A  
Drawing no. 244/03 Rev. A  
Drawing no. 244/04  
Drawing no. 244/05  
(Reason - To define the permission.)

## NOTE FOR APPLICANT

Informative:

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

### Plans relating to this application:

Location Plan            12Jan 2021

### List of Background Papers

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

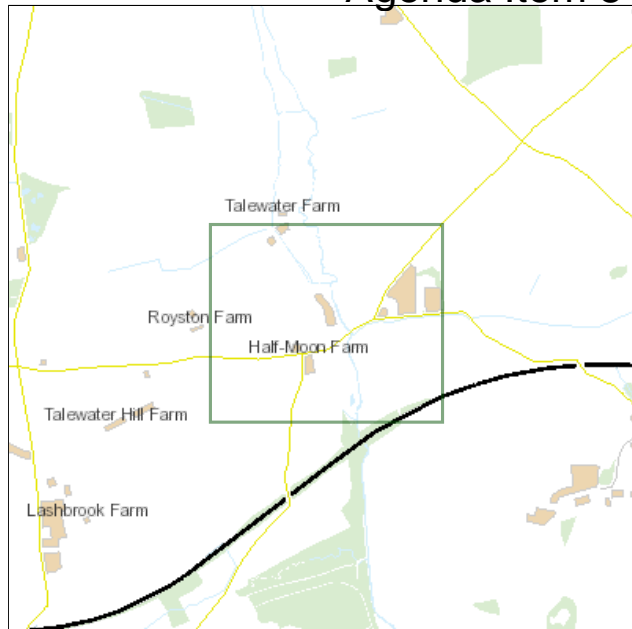
**Ward** Tale Vale

**Reference** 20/1086/FUL

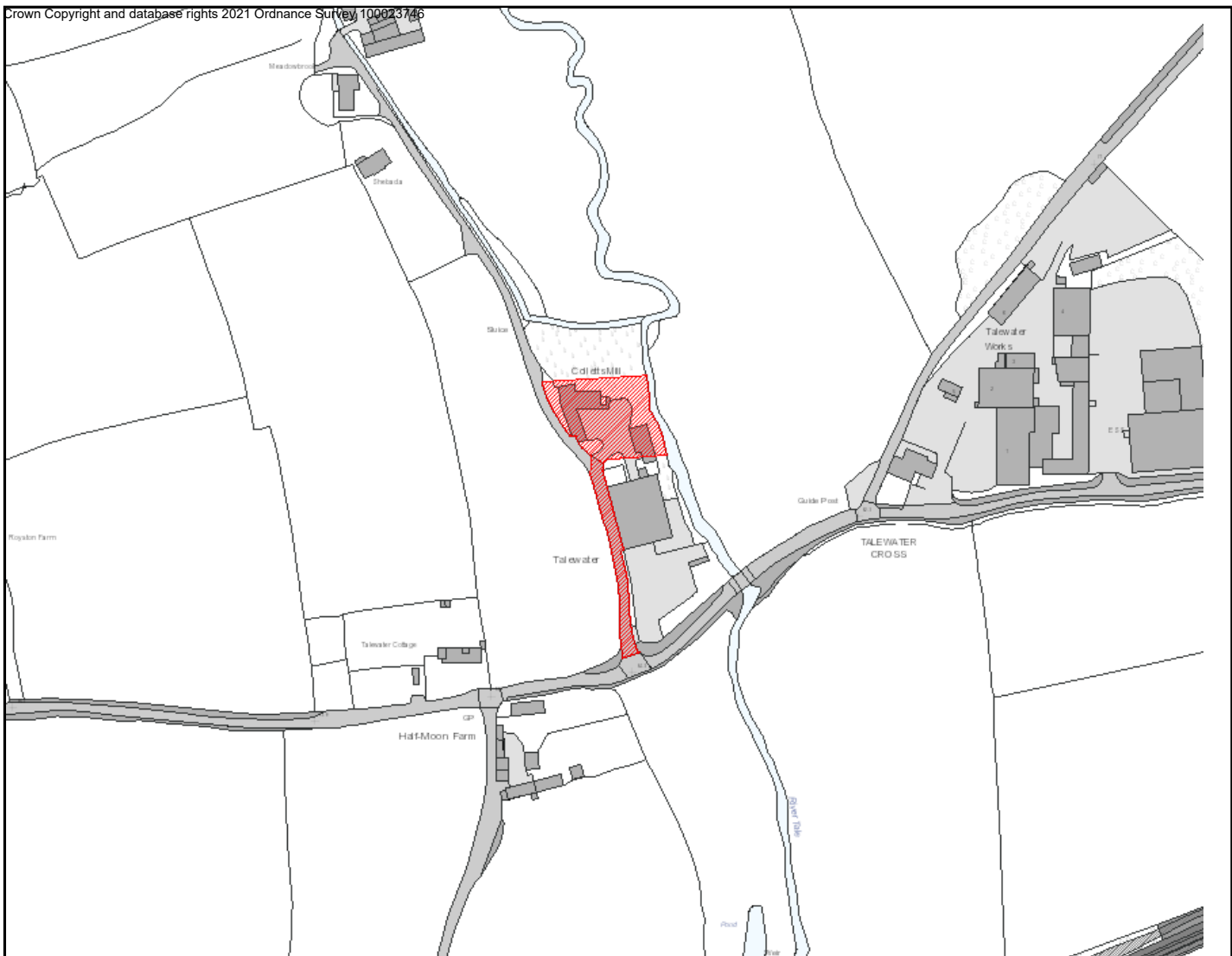
**Applicant** Mr Steve Hodge

**Location** Talewater Mill Talewater Talaton Devon EX5 2RS

**Proposal** Conversion of mill to residential dwelling.



**RECOMMENDATION: Refusal**



		<b>Committee Date: 14<sup>th</sup> June 2021</b>
<b>Tale Vale (Talatan)</b>	<b>20/1086/FUL</b>	<b>Target Date: 21.08.2020</b>
<b>Applicant:</b>	<b>Mr Steve Hodge</b>	
<b>Location:</b>	<b>Talewater Mill Talewater</b>	
<b>Proposal:</b>	<b>Conversion of mill to residential dwelling.</b>	

**RECOMMENDATION: Refusal**

### **EXECUTIVE SUMMARY**

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

**The application relates to a currently redundant building known as Talewater Mill. It is located in the countryside, approximately halfway between the villages of Talaton and Feniton (around 1.5 kilometres away from those settlements). The site lies partly within the flood zone associated with the near-by stream. To the south there are some commercial/workshop buildings.**

**Planning permission is sought to convert the building to a residential dwelling.**

**With regard to the principle of the development, the site lies in the open countryside, as defined by Strategy 7 of the East Devon Local Plan, where housing development is not normally permitted unless it is in accordance with another policy of the Local Plan or a neighbourhood plan. There is no neighbourhood plan in place for the Parish of Talaton.**

**Policy D8 of the Local Plan (Re-use of Rural Buildings Outside of Settlements) lists a number of criteria under which developments of the nature proposed can be considered acceptable. A key criteria for proposals which would result in a domestic use is that "Development is located close to a range of accessible services and facilities to meet the everyday needs of residents". Clearly, in this instance, the nearest facilities are not located where it is reasonable to expect residents to walk or cycle each time they utilise them and are, therefore, not considered to be 'close'. Furthermore, the bus service is limited. Consequently, it is considered likely that the primary way of accessing facilities will be by private motor vehicle. Therefore, the site is considered to be unsustainable and not in compliance Policy D8. Policy TC2 (Accessibility of New Development) of the Local Plan also requires development to be near to services, the proposal would not comply with this policy either.**

The National Planning Policy Framework (NPPF), in paragraph 79, details circumstances under which isolated homes in the countryside can be permitted. However, as the building forms one of a number of buildings in the surrounding locality, the building is not considered isolated, so Paragraph 79 of the NPPF is not engaged.

The proximity of the site to the applicant's place of work has been drawn to Officers attention. However, there is no local plan policy which specifically supports a dwelling in the countryside in such circumstances, and this factor would not significantly improve the sustainability of the dwelling, as it would remain most likely that all other services/trips (shopping, school, doctors, for leisure) would be accessed through the use of a private motor vehicle.

The agent has stated that a fall-back position is a material consideration in this instance, however, the GDPO Part 3 does not cater for industrial buildings to dwellings and therefore there is no relevant fall-back position in this instance.

Given the above, there is no support for the principle of the development.

Despite the proposal be acceptable in all other regards it is clear from the details above that neither the Local Plan nor the NPPF provide support for the principle of the proposal, despite the proximity of the site to the applicant's work place. Consequently, notwithstanding that the proposal is considered acceptable in all other regards, it is recommended that this application is refused.

## **CONSULTATIONS**

### **Local Consultations**

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

17/07/20 - The PC voted unanimously to support this application. We are pleased to see a brown field site being brought back into use and the conversion of the old storage buildings and mill into a dwelling will be a huge visual improvement to the area. We would have liked to have had more information on the precise location of the proposed water treatment site.

#### **Clerk To Feniton Parish Council**

20/07/20 - 20/1086/FUL conversion of mill to residential dwelling and annexe at Talewater Mill, Talewater, Talaton. It was RESOLVED to object to this application and to submit a response stating that 'Feniton Parish Council objects to this application due to serious reservations with regards to the possibility of increased flooding in the area'.

#### **Tale Vale – Cllr Philip Skinner – Ward Member**

I would like to very much be included in this meeting. My stance on this issue will be supporting Talaton PC in SUPPORT of this application.

#### **Feniton - Cllr Susie Bond – Adjoining Ward Member**

22/07/20 - Thank you for the opportunity to comment on this application in the adjoining ward.

My initial position on this application is that it should be refused.

While the conversion of rural buildings is to be encouraged to increase the housing stock in the countryside, this particular building is in flood zone 3, where building should be resisted. The property is on the boundary of the parish of Feniton in my ward. The village suffers from significant flooding issues, which means that access roads to the village become impassable. The application proposes that surface water should be directed into the stream which runs close to the property and, at times of heavy rain, this stream causes significant flooding issues on the road between Feniton and Talaton. Any surface water from the proposed property should not be added to the stream, as this will only exacerbate a pre-existing problem.

### **TECHNICAL CONSULTATIONS**

#### Environment Agency

17/07/20 - Thank you for your consultation of 29 June 2020 in respect of the above planning application.

Environment Agency position:

We object to this application on the grounds that it is not supported by an adequate flood risk assessment and that, based on the best available information, the proposal is located within flood zone 3b and should not therefore be permitted. Advice detailing the reasons for our position is set out below.

Reason - Inadequate flood risk assessment:

Whilst the submitted flood risk assessment (FRA) is for the conversion of three barns into three separate residential dwellings, the application is for just one residential property with an associated annex.

The FRA suggests that hydraulic modelling should be undertaken in order to determine flood levels for the site, yet this modelling has not been undertaken. The best modelling available (JFLOW) indicates that the site for development is in flood zone 3b (functional floodplain). There are also records of flooding in the area in 1997 and 2008.

Hydraulic modelling would also be required to assess the risk from the watercourse north of the development site. It is unclear how this watercourse will effect flood risk because it is not picked up on the JFLOW models.

Furthermore, the effects of climate change have not been considered within the FRA. The latest guidance available on gov.uk states that for residential properties an increase of 85% should be assessed.

We note that a finished floor levels label has been marked on the Proposed East Elevation drawing, however, no actual levels have been determined. Finished floor levels should be raised above the level of flood risk as well as taking into account the impact of climate change.

Therefore, detailed hydraulic modelling of the watercourses should be undertaken, taking into account the impact of climate change, in order to accurately understand what the risk will be to the proposed residential development. Once modelling has been assessed the FRA should be updated to reflect the current proposals and associated risks to people and property.

Reason - Proposal inappropriate in flood zone:

As noted above it is assumed that the site is located within flood zone 3b (the functional floodplain). Table 3 in the flood risk and coastal change section of the planning practice guidance is clear that 'more vulnerable' uses such as dwellings should not be permitted in flood zone 3b. However, if an acceptable FRA were to demonstrate that the site is not located within functional floodplain your Authority should consider whether the sequential and exception test are applicable.

For simple changes of use the sequential test does not need to be applied. However, where significant works are required to convert the use of a building, or the proposal involves subdivision, the sequential test may be applicable.

If you deem that the sequential test is applicable the exception test will need to be applied as a 'more vulnerable' development within flood zone 3. The exception test requires development to provide wider sustainability benefits to the community and be safe for its lifetime, without increasing flood risk elsewhere, and, where possible, reducing flood risk overall.

Regardless of whether the exception test needs to be applied it is still a general policy requirement for development be safe for its lifetime, without increasing flood risk elsewhere.

Further comments

20/11/20 - Thank you for reconsulting us on this application.

Environment Agency position

We maintain our objection to this development on the grounds of flood risk and the sequential test still needing to be passed.

Reason:

The sequential test is required if a dwelling is being subdivided. This change of use proposal is for the development on a residential property and separate annex (this would be classified as sub divide despite the connection on the first floor). Once passed the applicant will need to prove that the development will be safe for the lifetime (100 years).

The applicant has stated that finished floor levels cannot be raised as the levels are predetermined associated with building conversion. This is not deemed an adequate reason and unless there are sound planning or technical reasons that prevent floor levels being raised then finished floor levels must be raised above the design flood level taking climate change and freeboard into account.

When discussing the mitigation measures the FRA does not make any certainties about what will be provided for the development. If there is sound reason why finished floor levels cannot be raised then it must be confirmed what mitigation will be provided.

The LPA should be aware that if the applicant undertakes a "water exclusion strategy" - which would take the form of property flood resilience measures such as flood barriers these measures are generally only effective up to a maximum of 600mm when deployed in a correct and timely fashion. As the estimated flood depths are in the region of 600mm with no account for freeboard then internal flooding from overtopping or failure of these exclusion measures is a possibility.

There is adequate access and egress through the primary access into the property which is in flood zone 1. The first floor will also be a place for safe refuge should it be required.

#### Overcoming our objection

The applicant can overcome our objection by submitting an FRA which demonstrates that the proposed development will be safe from flooding over its lifetime without increasing flood risk elsewhere.

#### Further comments:

02/03/21 - Response

We continue to hold our objection on the ground of flood risk as we require clarification about finished floor level alterations.

#### Reason

The design of the property has been developed so that there will be no subdivision of the dwelling, the sequential test is therefore no longer required.

In order to account for an increase in flood risk due to climate change the updated plans and drawings have been adapted to take into account flood zone 2 levels for predicted flood levels which due to the scale of the development, in this instance is acceptable. A freeboard level of 800mm has also been used for the proposed mitigation measures.

#### Finished Floor Levels

The applicant has produced no technical reason such as building regulation minimum levels as to why finished floor levels cannot be raised. There may be sound reason and if this is the case then we have no further objections to this development however evidence as to why finished floor levels cannot be raised must be submitted and agreed by the planning officer.

If the applicant cannot provide just reason why finished floor levels cannot be raised above the flood level (taking climate change increase and freeboard into account) then we will hold our objection until finished floor levels are raised.

#### Flood Mitigation Measures

If there is just reason why finished floor levels cannot be raised then I am happy to remove my objection however we must have some more information on the mitigation measures that have been proposed.

Proposed Section drawings Jan 2021 states that 'doors and windows to provide flood resilience to minimum 63.84Maod'. Further information on the flood resilience measures should be submitted and the use of non-return valves should also be considered. We appreciate that exact doors etc. may not have been selected yet, in this case, if the Local planning Authority are minded to approve this application we suggest a pre commencement condition that details the exact flood resilience measures and what company will be used.

#### Advice to applicant

In order to remove our objection:

- o Please provide technical reasoning as to why finished floor levels are not being raised.
- o Please provide further information on the mitigation measures.
- o If there is no technical reason as to why finished floor levels can't be raised then development design should be adapted in line with my previous consultation response to raise above the 1 in too year flood level (taking climate change and freeboard into account).

#### Advice to LPA

If a water exclusion strategy with the use of flood mitigation measures does go ahead we suggest that regular maintenance and replacement of these measures be included within the section 106 agreement to insure that over the development lifetime of 100 years the resilience measures do not fall into disrepair or get replaced by non-resilient features.

#### Further comments:

12/04/21 - Thanks for reconsulting us about this proposal.

#### Environment Agency position

This development will be acceptable providing a condition is included on any permission granted prior to occupation of the dwelling in order to meet the requirements of the National Planning Policy Framework (NPPF).

The suggested wording for this condition and associated advice is provided below.

#### Condition - Flood Resilience Measures

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA). Prior to occupation of the dwelling, the developer must provide details of the flood resilience measures that will be installed as part of the development, including:

- o A full suite of resilience measures must be provided including flood doors and windows as well as non-return valves and airbricks and raising of the electrics within the building.
- o If the floor of the dwelling is not solid, a pump system should be considered to ensure that flood waters will not flood the property through floorboards. Long term maintenance of these measures for the lifetime of the development (100 years) must also be acknowledged.



#### Reason for condition

To ensure that the residential dwelling will be safe from flooding and minimise damage.

#### Notes to LPA

Just reasoning for not raising the finished floor level has been provided in an email from Mr Ian Firth on 11 March 2021.

We suggest that regular maintenance and replacement of the flood resilience measures be included within the Section 106 agreement to ensure that over the development lifetime of 100 years the resilience measures do not fall into disrepair or get replaced by non-resilient features.

#### EDDC Landscape Architect - Chris Hariades

27/07/20 - EDDC Landscape and green infrastructure response to planning application

Application no.

20/1086/FUL

#### Talewater Mill Talewater Talaton Devon

##### Description

Conversion of mill to residential dwelling and annexe

EDDC Planning Area

West

Date of response

27 July 2020

This report forms the EDDC's landscape response to the full application for the above site.

The report provides a review of landscape related information submitted with the application in relation to adopted policy, relevant guidance, current best practice and existing site context and should be read in conjunction with the submitted information.

## 2 LOCATION, SUMMARY PROPOSALS, SITE DESCRIPTION AND CONTEXT

### 2.1 Location and brief description of proposals and means of access

The site is situated at Talewater on a private lane to the north of the minor county road running between Tallaton and Feniton and immediately to the west of the River Tale.

The proposals comprise the conversion of a derelict former mill building to a single residence with the living accommodation arranged principally at first storey with large windows to the east elevation and associated external works.

### 2.2 Site description and context

The site is low lying and comprises a dilapidated mill building fronting the private lane with an area of cleared ground to the rear extending to the river on the far (east) side. There are some trees within the application boundary including a mature birch to the southern end of the mill building and some trees along the riverbank. There is an existing industrial shed to the southern side of the plot. Surrounding land is agricultural, predominantly arable land, characterised by large and medium sized fields bounded by low hedgebanks with frequent mature trees, predominantly oak.

There is no public access within or adjacent to the site or any public rights of way in the vicinity.

There are no landscape or conservation designations effecting the proposed site or its surroundings.

### 2.3 Landscape and visual effects of proposals

The proposals could adversely impact existing site trees. It is noted that spoil from site clearance operations has been placed under the canopy of an ash tree growing on the river bank which could adversely impact its health and which should be carefully removed clear of the canopy spread.

There is potential for some light spill from the large windows on the first floor which could be noticeable within an area noted for its dark night skies and which should be mitigated for by additional riverside tree planting.

The only visual receptors likely to be affected by the proposals are users (cyclists and motorists) of the county road to the east of the site which affords occasional views of the site from field gateways and over the top of hedgerow and users of the adjacent private lane accessing.

For users of the road to the west visual effects are likely to be limited to additional light spill at night, while for users of the private lane the refurbishment of an existing dilapidated building is likely to have a positive visual effect.

## 3 CONCLUSIONS & RECOMMENDATIONS

### 3.1 Acceptability of proposals

The proposed application is likely to have limited landscape and visual impact and on the basis of the details submitted the scheme should be considered acceptable in terms of landscape and visual impact subject to conditions as per section 3.2 below.

### 3.2 Landscape conditions

1) No development work shall commence on site until the following information has been submitted and approved in writing by the Local Planning Authority:

a) a landscaping 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, external lighting and measures to enhance bio-diversity value. The landscape scheme shall be carried out prior to occupation of the building with the exception of planting works which should be completed within the planting season following first occupation 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.

b) Measures for protection of existing perimeter trees/ undisturbed ground during construction phase in accordance with BS5837: 2012. Approved protective measures

shall be implemented prior to commencement of construction and maintained in sound condition for the duration of the works.

2) The works shall be executed in accordance with the approved drawings and details and shall be completed prior to first use of the building with the exception of planting which shall be completed no later than the first planting season following first use.

(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); D2 - Landscape Requirements and D3 - (Trees and development) of the Adopted East Devon Local Plan 2013-2031.)

#### Natural England

23/07/20 - Thank you for the above consultation received by Natural England on 7th July 2020.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

#### SUMMARY OF NATURAL ENGLAND'S ADVICE DESIGNATED SITES [EUROPEAN] - FURTHER INFORMATION REQUIRED

##### Habitats Regulations Assessment - Recreational Impacts on European Sites

This development falls within the 'zone of influence' for the East Devon Pebblebed Heaths SAC and East Devon Heaths SPA as set out in the Local Plan and the South East Devon European Sites Mitigation Strategy (SEDEMS). It is anticipated that new housing development in this area is 'likely to have a significant effect' when considered either alone or in combination, upon the interest features of the SAC/SPA due to the risk of increased recreational pressure caused by that development.

In line with the SEDEMS and the Joint Approach of Exeter City Council, Teignbridge District Council and East Devon District Council, we advise that mitigation will be required to prevent

such harmful effects from occurring as a result of this development. Permission should not be granted until such time as the implementation of these measures has been secured.

Natural England's advice is that this proposed development, and the application of measures to avoid or reduce the likely harmful effects from it, may need to be formally checked and confirmed by your Authority, as the competent authority, via an appropriate assessment in view of the European Site's Conservation Objectives and in accordance with the Conservation of Habitats & Species Regulations 2017 (as amended).

##### Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w).

Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the [data.gov.uk](https://data.gov.uk) website.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondence to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

## ANNEX A

Natural England offers the following additional advice:

### Landscape

Paragraph 170 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

### Best and Most Versatile Agricultural Land and Soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in GOV.UK guidance. Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

### Protected Species

Natural England has produced standing advice<sup>1</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

### Local Sites and Priority Habitats and Species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority Habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under Section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found here<sup>2</sup>. Natural England does not routinely hold species data; such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites; often found in urban areas and former industrial land. Further information including links to the open mosaic habitats inventory can be found here.

<sup>1</sup> <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

<sup>2</sup> <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

### Ancient Woodland, Ancient and Veteran Trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

### Environmental Enhancement

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be

incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

### Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

### Rights of Way, Access land, Coastal access and National Trails

Paragraphs 98 and 170 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

### Biodiversity Duty

Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available.

#### DCC Historic Environment Officer

15/07/20 - I refer to the above application. Talewater or Colletts Mill is a former water-powered corn mill, the site of which dates back to at least 1749. It is described in a sale notice of 1810 as a flour and grist mills with a house and stable. It appears to have last functioned as a mill in 1939, latterly with a gas or diesel engine. Although nothing is said to remain of the machinery, the building is likely to still retain structural evidence of its former function as a mill.

Given the impact of the proposed conversion upon the building(s) and in accordance with Policy EN6 of the East Devon Local Plan 2013 - 2031 and paragraph 199 of the National Planning Policy Framework (2019) the Historic Environment Team recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of historic building recording work to be undertaken in mitigation for the impact upon these heritage assets. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2019) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

"No development to which this permission relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.'

Reason: 'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of the historic building fabric that may be affected by the development'

This pre-commencement condition is required to ensure that the historic building recording works are agreed and implemented prior to any disturbance of the heritage asset by the commencement of preparatory and/or building works.

I would envisage the programme of work as taking the form of an appropriate record of the historic building(s) as well as any architectural features, fixtures and fittings affected by the development. This work would be undertaken in advance of any

conversion works and supplemented, if required, by observations made during the development. The results of the historic building recording work and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and any finds and archive deposited in accordance with relevant national and local guidelines.

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

### Other Representations

Two third party representations have been received. The primary points raised in these relate to flooding. A comment relating to boundaries is also made. However, boundary disputes are not a planning consideration.

### **PLANNING HISTORY**

- 88/P2506 - Refusal - Change Of Use From Light Industrial Building To Five Dwellings.
- 93/P0680 - Approval with conditions - Erection Of Industrial Units.
- 89/P1935 - Approval with conditions - Erection Of Small Industrial Units.
- 09/2239/FUL - Approval retrospective - Retrospective application for the installation of stone gabions.

### **POLICIES**

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

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

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

EN5 (Wildlife Habitats and Features)

EN6 (Nationally and Locally Important Archaeological Sites)

EN21 (River and Coastal Flooding)

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**

This application relates to a currently redundant building known as Talewater Mill. It is located in the countryside, outside any built-up area boundary approximately halfway between the villages of Talaton and Feniton; the site is approximately 1.5 kilometres away from those settlements. Access to the site is along a private drive, which joins the C Class road between the aforementioned settlements. There is a limited bus service which runs along the road, serving Talaton, Feniton, Whimble, Ottery St. Mary, Sidmouth and intermediate villages/hamlets.

The site lies partly within the flood zone associated with the near-by stream. To the south there are some commercial/workshop buildings and, to the north, accessed off the same track, is Talewater Farm; a grade II listed building, with associated outbuildings which appear to be holiday accommodation. Reasonably close to the site, but accessed off the public highway, are two other residential properties, one of which is also a grade II listed building, and some other commercial buildings.

**Proposed Development**

Planning permission is sought to convert the building to a residential dwelling. This includes the raising of the roof and elevation changes to introduce doors and windows.

**ANALYSIS**

The key considerations in the determination of these applications relate to the principle of development, flood risk, visual impact, conservation and archaeology, highway safety and ecology.

**Principle**

The site lies in the open countryside, as defined by Strategy 7 of the East Devon Local Plan, where housing development is not normally permitted unless it is in accordance with another policy of the Local Plan. The current building is in a poor state of repair, but it is noted that the structural survey concludes that the building is suitable for conversion to a dwelling.

Policy D8 of the Local Plan (Re-use of Rural Buildings Outside of Settlements) lists a number of criteria under which developments of the nature proposed can be considered acceptable. A key criteria for proposals which would result in a domestic use is that "Development is located close to a range of accessible services and facilities to meet the everyday needs of residents". Clearly, in this instance, the nearest facilities are not close and it is not reasonable or likely for occupiers walk or cycle each time they utilise them. Furthermore, the bus service is limited. Consequently, it is considered likely that the primary way of accessing facilities in Talaton, Feniton, Ottery St. Mary and beyond will be by private motor vehicle. Therefore, as it is not located

close to a range of facilities, the site is considered to be unsustainable and not in compliance with the aforementioned criteria. Consequently, the development would not comply with Policy D8 of the Local Plan regardless of whether it is considered to comply with other elements of that policy.

Additionally, Policy TC2 (Accessibility of New Development) of the Local Plan requires development to be located where the use of private motor vehicles to access services is reduced. Clearly, in this instance, the development is not considered to comply with that policy, due to the location of the site in away from any settlement.

The National Planning Policy Framework (NPPF), in paragraph 79, details circumstances under which isolated homes in the countryside can be permitted. However, as the building forms one of a number of buildings in the surrounding locality, the building is not considered isolated, the agent agrees to this interpretation as well and, therefore, Paragraph 79 of the NPPF is not engaged.

Whilst the building has been in employment use, it appears to have been vacant for some time and as such its loss from employment use is not considered to be of concern or contrary to Strategy 32, although the continued use of the building for its lawful employment use would be welcomed.

The proximity of the site to the applicants place of work has been drawn to Officers attention, and this factor is noted. However, there is no local plan policy which specifically supports a dwelling in the countryside in such circumstances. Therefore, there would be no basis on which a condition to restrict the occupancy of the dwelling in that way could be upheld. Furthermore, it is considered that this factor would not significantly improve the sustainability of the dwelling, as it would remain most likely that services would be accessed through the use of a private motor vehicle. Trips to access shopping facilities, schools, doctor, sports and leisure facilities would all necessitate use of the car and outweigh any benefits from being located close to the place of work.

Finally, the agent has stated that a fall-back position is a material consideration in this instance, however, the GDPO Part 3 does not cater for industrial buildings to dwellings and therefore there is no relevant fall-back position in this instance.

Given these factors, it is considered that the close proximity of the applicants work place to the proposal site is not sufficient reason on its own to support the proposal.

Given the above comments it is considered that there is no support for the principle of the development.

### **Suitability of the barns for conversion and external changes.**

The structural survey submitted with the application concludes with the following statement:

*"It is also thought reasonable to assert that the building, as described within this report, is capable of conversion to a dwelling without significant alteration, extension or substantive re-building".*

Given that conclusion, and the lack of any evidence to counter that conclusion, it is considered that the building is suitable for conversion.

The external changes proposed would not unacceptably alter the scale of the building, and would use many of the existing openings. The proposed materials would be sympathetic to the rural nature of the area, and full details of these can be sought by condition to ensure that they are suitable.

Overall, it is considered that the proposed scheme is sympathetic to the character and appearance of the building, and would provide a long term use for the building in accordance with Policy D1 of the EDDC Local Plan.

### **Flood Risk**

The application site is located partly in, or very close to, a flood zone, and objections relating to flooding matters have been received from the ward member and parish council representing the adjoining parish (the parish and ward boundary is directly adjacent to the site) and a third party. The Environment Agency (EA) initially objected to the application as they also has concerns about flood risk. As a result of those concerns, additional information, and clarification of some areas of the proposal, was provided by the applicants. This information was considered by the EA and was deemed to be sufficient for them to withdraw their objection to the proposal, subject to a condition relating to the provision of flood resilience measures within the dwelling. The condition proposed by the EA is considered to be reasonable, although it is considered that the use of a S106 agreement could be reasonable replaced with an 'in perpetuity' condition.

It is noted that the EA have focused on the risk to the property from flooding, whilst some of the objections received regarding flooding have also made reference to flooding in the wider area. Those objections are noted, but, with the EA not raising such matters as a concern (and also as the Highway Authority has not raised concerns about highway flooding), it is considered that it would be unreasonable for the Council to object to the proposal on those grounds.

With reference to the sequential test, this is not required on the basis that the proposal relates to the conversion of a building, rather than the construction of a new building and as such represents a change of use.

Given the above comments, it is considered that the proposal is acceptable with regard to flood risk.

### **Conservation and archaeology.**

The building to which this application relates is not listed, and neither are any of the immediately adjoining buildings. There are two listed buildings within 150 - 250 metres of the site. Given that distance, the nature of the proposal and the character of the existing building, it is considered that the development would not have a detrimental the setting of those listed buildings; the listed buildings are not visible from the site, and the development would not impact upon their setting.

The County Archaeologist has assessed the proposal and has drawn attention to the potential for the site to contain historic artefacts, given its former use. Consequently, a condition relating to a Written Scheme of Investigation (WSI) has been suggested. This condition is considered to be acceptable, and will be imposed if this application is approved.

Given the above comments, the proposal is considered acceptable with regard to its impact on conservation and archaeology.

### **Highway safety and parking provision.**

The proposed dwelling would be accessed off a private drive which, in turn, joins the public highway at a well-established entrance. That entrance is used by a number of properties. The County Highway Authority has not objected to the proposal so, therefore, it is considered that the proposed access arrangements are acceptable in highway safety terms.

With regard to parking provision, a large parking area would be provided with the dwelling. This would exceed the Local Plan requirement for 2 parking spaces, and would also enable vehicles to arrive at, and depart, the site in a forward gear.

Given the above, the proposal is considered acceptable in terms of its impact on highway safety, and is also in terms of parking provision.

### **Ecology**

The application is supported by an Ecology Report, which provides the following two key conclusions:

*"The proposed development will not affect the favourable conservation status of any local bat population. No signs of bats were associated with any element of the structures to be affected; no inaccessible crevice dwelling opportunities were identified."*

*"Wrens and blackbirds had previously nested within the former mill. Commencement of works would best be undertaken outside the nesting bird season [March - August]. Alternatively, the building should be made inaccessible or unsuitable for this purpose during the same period."*

Given those comments, and taking into account that Natural England has not objected to the proposal, it is considered that the development is acceptable in ecology terms, subject to a condition to ensure that the works are undertaken in accordance with the recommendations of the ecology report.

### **Residential amenity**

There are no other residential properties located close to the application site, with the nearest property being used for commercial purposes. With that in mind, it is considered that no amenity issues would arise from the proposed dwelling.

## **Appropriate Assessment**

The nature of this application and its location within 10 kilometres of the Pebblebed Heaths. 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 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**

It is clear from the details above that neither the Local Plan nor the NPPF provide support for the principle of the proposal, despite the proximity of the site to the applicant's work place. Policies in the Local plan seek to direct new residential development to locations within, or at the edge of existing settlements and this proposal is neither in or near a settlement and as such is in an unsustainable location.

Whilst the proposal would bring the building back into use, this could equally be achieved through its continued lawful business use.

Consequently, notwithstanding that the proposal is considered acceptable in all other regards, it is recommended that this application is refused.

## **RECOMMENDATION**

REFUSE for the following reasons:

1. The site is located in the open countryside, outside of any built up area boundary defined within the East Devon Local Plan, where residential development is restricted. The proposed development by reason of its unsustainable location in the countryside, remote from essential services and facilities required for daily living, would result in an unsustainable form of development with reliance upon the use of the motor vehicle to access the services. Consequently, the proposal would be contrary to the provisions of Strategy 7 (Development in the Countryside), and Policies D8 (Re-use of Rural Buildings Outside Settlements) and Policy TC2 (Accessibility of New Development) of the East Devon Local Plan

2013-2031, in addition to the guidance within 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 proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

##### Plans relating to this application:

AMENDED	Flood Risk Assessment	29.10.20
ecological impact assessment	Justification Statement	01.06.20
	Structural Survey	25.06.20
PA 07 : SOUTH	Proposed Elevation	01.06.20
PA 09 : WEST	Proposed Elevation	01.06.20
PA 13: GROUND	Proposed Floor Plans	01.06.20
PA 15 : FIRST	Proposed Floor Plans	01.06.20
PA 11 B	Proposed Elevation	20.01.21
PA 01 B	Location Plan	20.01.21
PA 03 B	Proposed Block Plan	20.01.21
PA 17 B	Proposed roof plans	20.01.21
PA 18 B	Sections	20.01.21
PA 31 B	Perspective Drawing	20.01.21

##### List of Background Papers

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

**Ward** Woodbury And Lympstone

**Reference** 21/0490/FUL

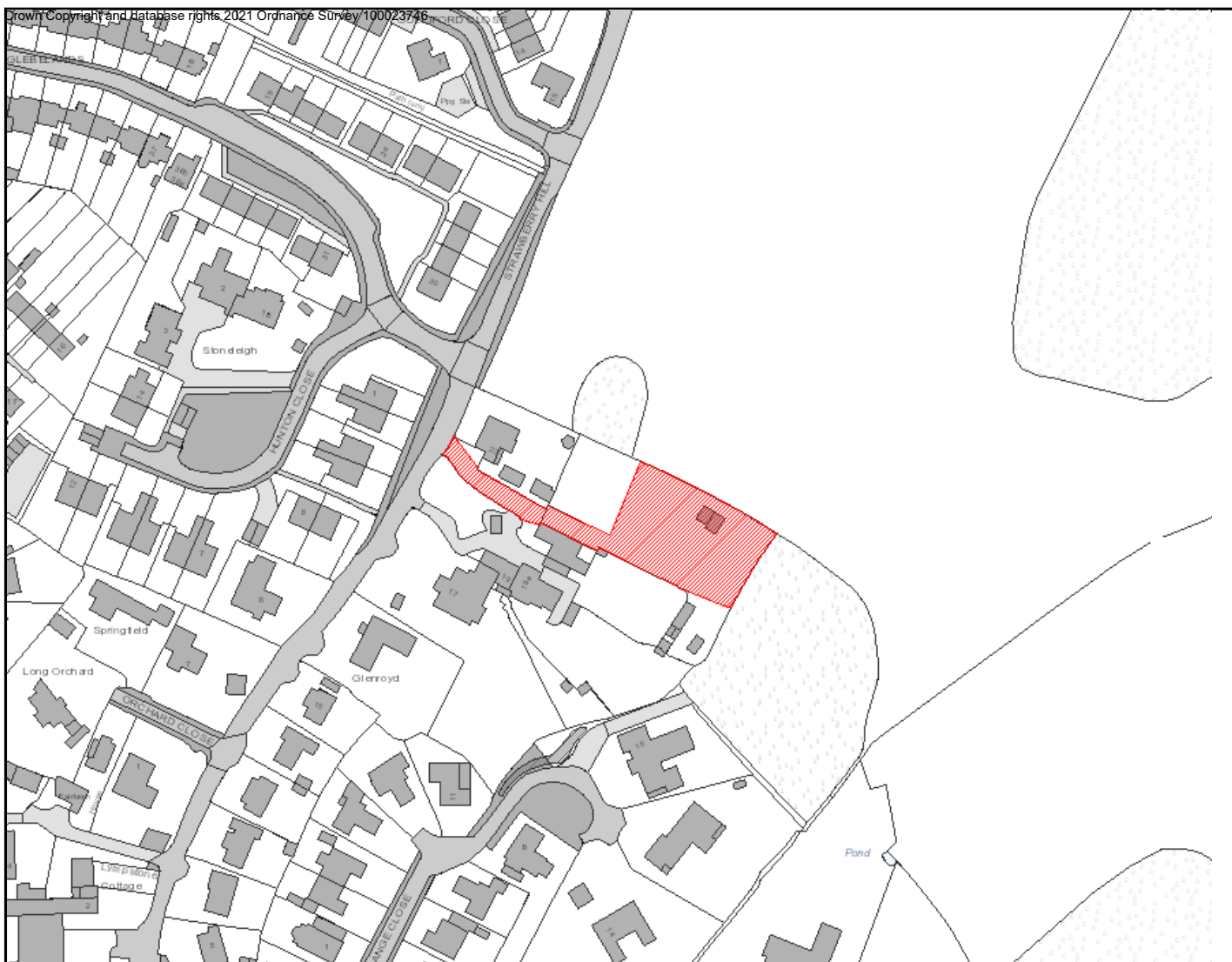
**Applicant** Mr and Mrs T and D Chetwood

**Location** Land Adjacent To 21 Strawberry Hill Lympstone

**Proposal** Proposed new dwelling and car port



**RECOMMENDATION: Refusal**



		<b>Committee Date: 14th June 2021</b>
<b>Woodbury And Lympstone (Lympstone)</b>	<b>21/0490/FUL</b>	<b>Target Date: 06.05.2021</b>
<b>Applicant:</b>	<b>Mr and Mrs T and D Chetwood</b>	
<b>Location:</b>	<b>Land Adjacent To 21 Strawberry Hill Lympstone</b>	
<b>Proposal:</b>	<b>Proposed new dwelling and car port</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application is before Members because the Officers recommendation differs from those of a Ward Member and the Parish Council.**

**Planning permission is sought for the construction of a detached dwelling with associated parking and amenity area.**

**This site has been the subject of an outline approval granted in 2014, and a subsequent reserved matters approval granted in 2017. These approvals were not implemented and have now lapsed, with the reserved matters expiring on 4 December 2019, and therefore the principle of a new dwelling on this site needs to be considered within the current policy context.**

**The application site lies adjacent to, but outside of the Built up Area Boundary of Lympstone, and is therefore considered, in planning terms to be in the countryside where new residential development is strictly controlled. Strategy 7 (Development in the Countryside) of the Local Plan, echoed by, states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located. Policy 2 of Lympstone Neighbourhood Plan states that other than through the conversion of suitable rural buildings, the development of new isolated homes in the countryside will generally be resisted.**

**It is considered that the site is of sufficient size to accommodate a dwelling of the design, scale and layout proposed without detriment to the character and appearance of the area or damage to amenity. However the location of the site is outside any area identified for new residential development, and is therefore considered to be in an unsustainable location.**



**In the absence of any Local or Neighbourhood Plan Policy that explicitly permits new residential development in this location, or any other justification to support the construction of a new dwelling, the proposed development is considered to be contrary to policy and is therefore recommended for refusal.**

## **CONSULTATIONS**

### **Local Consultations**

#### Woodbury And Lympstone - Cllr Geoff Jung

21/0490/FUL

I have viewed the planning application documents for 21/0490/FUL for a proposed new dwelling and car port on land adjacent to 21 Strawberry Hill Lympstone.

I note that the location for this dwelling is adjacent to the Lympstone approved built up area boundary and therefore this application is for a development within the open countryside and is therefore not supported by the East Devon Local Plan

I therefore cannot support this planning application, but I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Further comments:

Thank you for your report which agrees with my interpretation of our local plan. Last month we had a similar issue with a dwelling being proposed 'in the open countryside' the conclusion of the planning committee was there should not be an exception and the planning policy must be upheld. Although I supported that application I agreed with the decision by the members of the committee and therefore we need to be consistent with our views and therefore I continue to support the views of the officers, and this application be refused.

#### Woodbury And Lympstone - Cllr Ben Ingham

I recommend this application for approval. Based on the planning history of the site, I think it appropriate to sustain approval for development of the site. I also believe we would be very vulnerable at appeal should the application be refused. I look forward to 21/0490/FUL going to the planning committee for decision.

#### Parish/Town Council

Recommendation: Support

LPC support this application subject to clarification on the plan of the exact position and location of the proposed building on the site. LPC also require further information regarding the sewage; why it could not be linked to the mains sewer as there are concerns that a soakaway would end up polluting the Wotton Brook.

Recommendation: Support

### **Technical Consultations**

#### EDDC Trees

The submitted arboricultural information demonstrates that by implementing the proposed tree protection measures, shown on the tree protection plan, and following the processes described in the associated arboricultural method statement, the proposed development can be carried out without significant impact on the retained trees.

I am satisfied on arboricultural grounds with the condition to be -

Prior to commencement of any works on site (including demolition), Tree Protection measures shall be carried out as detailed within the plans submitted within this application and shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no changes to be made without first gaining consent in writing from the Local Authority.

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

(a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

(b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines for the Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.

(c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) other than that already identified unless agreed in writing by the Local Planning Authority.

(d) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way other than that detailed in the arboricultural report or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

(Reason - To ensure retention and protection of trees on the site prior to and during construction 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 D3 - Trees and Development Sites of the Adopted New East Devon Local Plan 2013-2031).

#### Other Representations

None received

## **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
17/2415/RES	Reserved matters for the construction of 1no dwelling (pursuant to 14/1567/OUT) seeking approval for access, appearance, landscaping, layout and scale	Approved	04.12.2017
14/1567/OUT	Outline application with all matters reserved for the construction of a detached dwelling	Approved	20.11.2014

## **POLICIES**

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

D1 (Design and Local Distinctiveness)  
D2 (Landscape Requirements)  
D3 (Trees and Development Sites)

EN14 (Control of Pollution)  
EN22 (Surface Run-off Implications of New Development)

TC2 (Accessibility of New Development)  
TC7 (Adequacy of Road Network and Site Access)  
TC9 (Parking Provision in New Development)

### Lympstone Neighbourhood Plan

Policy 2

### Government Planning Documents

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

## **Site Location and Description**

The application site is located on the northern edge of Lympstone and comprises a piece of land that is presently used as an allotment/garden/amenity area. The site measures approximately 0.15ha and is accessed from a private driveway that currently serves two other existing residential properties. The site lies outside of, but contiguous

with the built up area boundary for the village. There are no landscape designations relating to the site.

The land in this location slopes quite steeply from the North West towards the south east, with a fall over the site of around 7m.

### **Proposed Development**

Planning permission is sought for the construction of a detached dwelling with car port accessed from Strawberry Hill via an existing driveway that serves two further dwellings and the application site.

The proposed dwelling is sited towards the north western side of the site, with an L shaped form with projecting gable forming the main south westerly aspect and a further gable to the south east. Due to the sloping nature of the land it is proposed to cut the dwelling into the site to the rear, and raise the land to the front. Steps would lead down from the front of the property to the garden and carport which is sited towards the southern corner of the plot.

A two storey dwelling is proposed with a total floor area of 175 square metres, arranged with living accommodation on the ground floor with a double storey living space to the south eastern wing, and three bedrooms, bathrooms and guest accommodation on the first floor.

### **Consideration and Assessment**

The main issues to be considered in the determination of this application relate to the principle and policy context of the development; design and layout of the dwelling; and impact on the character and appearance of the area; on residential amenity; highway safety, and trees.

#### **Principle and Policy Context**

This site has been the subject of an outline approval granted in 2014, and a subsequent reserved matters approval granted in 2017. These approvals were not implemented and have now lapsed, with the reserved matters expiring on 4 December 2019, and therefore the principle of a new dwelling on this site needs to be considered within the current policy context.

At the time the outline planning permission was granted, the East Devon Local Plan was time expired and the Authority could not demonstrate a 5 year housing land supply. This position weighed very heavily in the consideration of applications for new housing development on sites which lay outside, but well related to identified Built-up Area Boundaries (BuAB). In this particular case the application site, whilst outside the BuAB and therefore, in planning terms, in the countryside, was considered to be acceptable as the Council could not rely on the previous Local Plan Strategy defining development boundaries.

This policy position has fundamentally changed and the Local Authority now has an up to date Local Plan, sufficient land identified to meet a 5 year housing land supply,

and the Lympstone Neighbourhood Plan has been adopted and carries full weight. Within both the Local and Neighbourhood Plan the application site lies outside of the BuAB or any site specific allocation, and is therefore classed as being within the countryside. Whilst there are residential properties to the south and western boundaries of the site, the land to the north, east and south east is open and rural in character.

Strategy 7 (Development in the Countryside) of the Local Plan states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located. There are no policies within the Local Plan which support applications for residential development in the countryside where there is no agricultural, forestry or rural worker need.

The Lympstone Neighbourhood Plan (LNP) is 'made' and therefore its policies are a material consideration and should be accorded full weight. Policy 2 of the LNP states that "Other than through the conversion of suitable rural buildings, the development of new isolated homes in the countryside will generally be resisted."

There are no other policies within the LNP which support residential development outside the BuAB of the village.

It is not considered that there is therefore any policy support for the development of a site which lies outside of the defined boundary, and no argument has been presented which seeks to demonstrate that there are exceptional or particular circumstances which would justify setting aside the adopted planning policies for the area.

Bearing the above in mind, it is considered that the proposed development will be contrary to Strategy 7 of the Local Plan and Policy 2 of the Lympstone Neighbourhood Plan and there remains an 'in principle' objection to the proposed development.

## **Design and Layout**

The design of the property is relatively suburban being of two storey form under a pitched tiled roof with projecting full height glazed gables to the south east and south west elevations. The proposed materials comprise a combination of brick plinths with cladding above under a plain clay tile roof. The orientation of the property is generally to the south to take advantage of the outlook and open aspect across the open countryside.

Within the vicinity of the site there are a wide variety of dwellings with detached, semi-detached and coach-house style properties and a number of more modern bungalows fronting Strawberry Hill. The site, however, cannot be seen from Strawberry Hill, and whilst the proposed dwelling does not have any particular reference to local vernacular style, in terms of design and layout it is considered to be acceptable in this location.

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

As stated above the site cannot be viewed from Strawberry Hill, being accessed from the private driveway which serves No.21 together with No.23 (Grange Cottage).

As such any impact of the proposed development would be from wider views of the site across the open countryside to the east, particularly from A376 Exmouth Road. From here Grange Cottage can be seen in fleeting views, and with the proposed dwelling being sited to the east of this and beyond the existing boundary screening, it would more prominent in this wider view. Having said this the dwelling would be seen against the existing built form of Grange Cottage and No.21 Strawberry Hill. The proposal would introduce a new building into this part of the countryside, however it is not considered that the limited views of the dwelling would be unreasonably prominent given the distances involved and the locations from which the site can be seen. Essentially these amount to views from a vehicle heading towards Exeter, as the road is relatively narrow and lacking in footpaths, and therefore not conducive to walking or other forms of transport.

### **Residential Amenity**

The main issues in this respect are considered to be in relation to the impact of a new dwelling in terms of increased activity levels, pollution, noise and disturbance and any loss of privacy or overlooking.

The site has a long established use as an amenity plot, with a right of access along the driveway between Grange Cottage and a property known as Rest Harrow. As such a certain level of activity can be expected, albeit that the current use of the site appears to be very low key.

Notwithstanding the existing use and right of access across the site, the introduction of a new dwelling is likely to result in some increase in activity on the site which will have some impact on the amenities of the neighbouring residents, particularly those within No.21 given that the internal floor levels of that property are below the access drive level. Any additional traffic movements have the potential to be detrimental to the level of amenity presently enjoyed through increased noise and pollution, although it is not considered that the traffic generated by the occupation of a single dwelling result in a significant loss of amenity such that it would be reasonable to withhold permission. It is material that permission was not refused on this ground previously.

The proposed dwelling and garden is located to the north of the walled garden associated with No.21. The orientation of the proposed dwelling is such that the main aspect is to the south and east and whilst there is the potential for some overlooking of the garden to the property to the south, the internal arrangements and significant boundary wall to the south is considered to mitigate any potential loss of amenity for the occupiers of the existing property.

### **Highway Safety**

It is not proposed to alter the existing driveway and access arrangements serving the land which, although narrow is considered to be capable of accommodating the traffic associated with a further dwelling.

Suitable provision for parking and turning of vehicles has been made within the site, together with a double car port and cycle store.

## **Trees**

The submitted arboricultural information demonstrates that by implementing the proposed tree protection measures, shown on the tree protection plan, and following the processes described in the associated arboricultural method statement, the proposed development can be carried out without significant impact on the retained trees.

## **Other Matters**

Whilst the concerns raised by the Parish Council are appreciated, the application states that the property would be connected to the main sewer, with surface water only to a soakaway.

## **Habitats Regulations**

The nature of this application and its location close to the Exe Estuary and Pebblebed Heaths and its European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the 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 working in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

## **CONCLUSION**

It is considered that the site is of sufficient size to accommodate a dwelling of the design, scale and layout proposed without detriment to the character and appearance of the area or damage to amenity. However the location of the site is outside any area identified for new residential development, and is therefore considered to be in an unsustainable location.

In the absence of any Local or Neighbourhood Plan Policy that explicitly permits new residential development in this location, or any other justification to support the construction of a new dwelling, the proposed development is considered to be contrary to policy and is therefore recommended for refusal.

## **RECOMMENDATION**

REFUSE for the following reasons

1. The site falls outside of the built-up area boundary of any defined settlement or a Strategic allocation within the Adopted East Devon Local Plan and Lympstone Neighbourhood Plan and is therefore within the open countryside Under the provisions of Strategy 7 development will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located. There are no policies within the Local Plan or Lympstone Neighbourhood Plan that permits the proposed development and therefore in the opinion of the Local Planning Authority, development of this site would undermine the strategic objectives of the Local and Neighbourhood Plan, where consideration has been given to the location of future development. The proposal would therefore be contrary to the provisions of Strategy 7 (Development in the Countryside) of the East Devon Local Plan 2013-2031 and policy 2 of the Lympstone Neighbourhood Plan.

### 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:

A.07 : car port	Combined Plans	04.03.21
T.01	Location Plan	04.03.21
A.05	Proposed Elevation	04.03.21
A.03 : first	Proposed Floor Plans	04.03.21
A.02 : ground	Proposed Floor Plans	04.03.21
A.04	Proposed roof plans	04.03.21
A.01	Proposed Site Plan	11.03.21
A.08 : site/house section	Proposed Combined Plans	04.03.21



List of Background Papers

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

**Ward** Woodbury And Lymphstone

**Reference** 21/0908/VAR

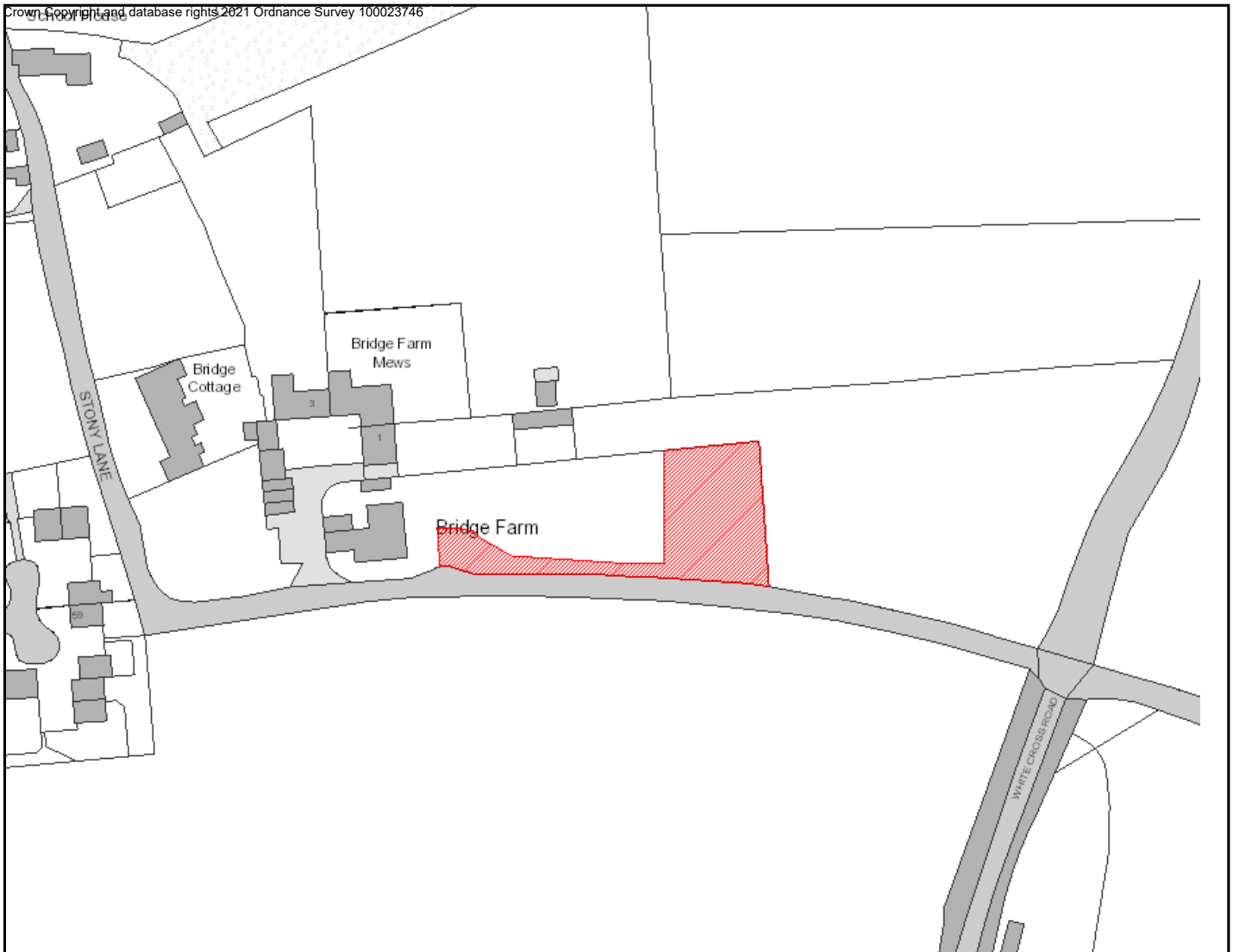
**Applicant** Mr Tom Buxton-Smith

**Location** Bridge Farm Stony Lane Woodbury Salterton Exeter EX5 1PP

**Proposal** Variation of condition 2 (approved plans) and removal of condition 3 (closure of access and reinstatement of hedge) of planning permission 20/0568/VAR to allow the retention of the temporary access onto Stony Lane



**RECOMMENDATION: Refusal**



		<b>Committee Date: 14th June 2021</b>
<b>Woodbury And Lympstone (Woodbury)</b>	<b>21/0908/VAR</b>	<b>Target Date: 03.06.2021</b>
<b>Applicant:</b>	<b>Mr Tom Buxton-Smith</b>	
<b>Location:</b>	<b>Bridge Farm, Stony Lane, Woodbury Salterton</b>	
<b>Proposal:</b>	<b>Variation of condition 2 (approved plans) and removal of condition 3 (closure of access and reinstatement of hedge) of planning permission 20/0568/VAR to allow the retention of the temporary access onto Stony Lane</b>	

**RECOMMENDATION: Refusal**

#### **EXECUTIVE SUMMARY**

**This application is before Members because the applicant is a member of staff of East Devon District Council, and the Officer recommendation is contrary to the views of a Ward Member.**

**Planning permission is sought to vary condition 2 (plans condition) and to vary condition 3 (closure of access) of approval granted under reference 20/0568/VAR to allow the retention of an unauthorised access which has been formed onto Stony Lane.**

**The formation of an access in this location has been previously considered and found to be unacceptable, having been dismissed on appeal on two separate occasions. It is not considered that there have been any material change in circumstances which would overcome the previous reasons for refusal, and that the visual harm arising from the development would outweigh any potential benefits of the proposal. Whilst support from local residents is acknowledged on the basis that the access creates a passing place, County Highways state that visibility at the access is substandard, although they would support the retention of the mouth of the access as a passing place.**

**The application is therefore recommended for approval.**

## **CONSULTATIONS**

### **Local Consultations**

Woodbury And Lympstone - Cllr Geoff Jung

I need to declare a personal interest as the applicant is an employee for the local authority and therefore, I know the applicant.

I have read the documents for the variation 21/0908/VAR for the removal of condition 3 (closure of access and reinstatement of hedge) of planning permission 20/0568/VAR to allow the retention of the temporary access onto Stony Lane at Bridge Farm Stony Lane Woodbury Salterton.

There is a substantial history for the single dwelling development which was approved some 4 years ago prior to the adoption of our local plan, and therefore at the time was within the approved built-up area boundary of the village of Woodbury Salterton.

The application was approved but subject to several conditions, which condition 3 required the temporary access to be filled in and a new drive access built through the front garden of the 'parent' house Bridge Farm requiring several mature trees to be felled.

In previous applications I had always supported the access coming off Stony Lane through the boundary hedge that formed the curtilage of garden for Bridge farm and I could never understand how in planning terms we could insist to retain a residential boundary hedge in a location that is neither listed or in a conservation area.

I understand that Highways did not object to the entry in this position and there is substantial local support for the retention of this driveway which provides a welcome pull-in along this long narrow lane.

The proposal is to improve and enhance the entry to blend better into the surroundings plus an extra amount of hedge planting treatment to the boundaries of the new house. In the last few years, we have learnt a lot about the damage a development has on the biodiversity, but this variation will help offset the net loss considerably.

I therefore again support the proposal and to retain the driveway and I reserve my final views on this application until I am in full possession of all the relevant arguments for and against

Further comments:

Thank you for the report. I note the recommendation is to refuse, but as the report states this is a finely balanced decision, I feel that this application should be allowed.

Parish/Town Council

SUPPORT.

**Technical Consultations**

Devon County Highway Authority

Observations:

The access in question for condition 3 has been reviewed in two previous planning applications and has been found to be of poor visibility for permanent use, whilst I appreciate it creates a useful passing place for Stony Lane, the County Highway Authority would be happy to review the possibility for maintaining the access bell-mouth as a passing place only, as parallel visibility is much greater than a vehicle entering and existing at this point as an access.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT PERMISSION BE REFUSED FOR THE FOLLOWING REASONS

1. The proposed development would be likely to result in an access which does not provide adequate visibility from and of emerging vehicles, contrary to page 32 of the National Planning Policy Framework.

#### EDDC Trees

I would support and re-iterate the comments made by David Lomas in relation to the previous application.

"I have concerns on arboricultural grounds with this development because there are a large number of good quality trees being felled to develop the new roadway for no arboricultural reason and no replacements offered or a better alternative investigated i.e. the existing opening."

The current (unauthorised) access is preferable as it does not impact on the existing mature trees at the site unlike the permitted proposed access route.

I therefore support this variation of condition application.

#### Other Representations

20 representations have been received in respect of the proposed development all supporting the submissions. In addition a petition supporting the retention of the entrance has been submitted with 16 signatures, and a further digital petition with 151 signatures.

#### **PLANNING HISTORY AND BACKGROUND**

Outline planning permission was refused in 2014 (reference 14/1161/OUT) for the development of the site on the basis of it is unsustainable location and the impact which the formation of the proposed access onto Stony Lane would have on the character and appearance of the area and potential impact on protected species. In dismissing the subsequent appeal the Planning Inspector found that the site was sustainably located, however found that the formation of the proposed access, with suitable visibility would "*leave a significant, urbanizing and harmful visual mark on the local scene to its detriment*". The Inspector suggested that the use of the existing access from Stony Lane should be further explored as it would prove far less visually harmful.

Outline planning permission for a new dwelling, served by a joint access with Bridge Farm was approved in February 2015. (Reference 14/2969/OUT)

A new access was formed from Stony Lane in 2015 with a subsequent application seeking retention of this submitted under reference 15/1492/FUL. This application proposed widening the access which had been formed to provide visibility splays which would meet highway safety standards, however it was refused on the basis of

the significant, urbanizing and harmful visual impact arising from the proposed development. A subsequent appeal was dismissed, with the Inspector finding that the proposed access would result in harm to the character and appearance of the countryside.

An application for the approval of the reserved matters of the outline consent granted under 14/2969/OUT was submitted under reference 17/0990/RES which was approved by notice dated 25 August 2017. This application included the retention of the access which had been previously created to be used during the construction period, but which was to be permanently closed prior to the occupation of the dwelling. Condition 3 of the decision notice stated:

*“Notwithstanding the submitted information and prior to the commencement of the development hereby permitted, details of the proposed works to permanently close the unauthorised access created in the south eastern corner of the site onto Stony Lane, and to reinstate the hedge boundary shall have been approved in writing by the Local Planning Authority; and the dwelling shall not be occupied until the agreed works have been undertaken in accordance with the approved details.*

*(Reason - To ensure that the unauthorised access is permanently closed in the interests of highway safety and visual amenity in accordance with the requirements of Policies D1 (Design and Local Distinctiveness) and TC7 - Adequacy of Road Network and Site Access of the Adopted East Devon Local Plan 2013-2031.)”*

Subsequent to the reserved matters approval two further application to vary the approved design and layout of the proposed dwellings have been submitted and approved under references 19/0868/VAR and 20/0568/VAR. Both of these approvals included a condition requiring the permanent closure of the access onto Stony Lane prior to the occupation of the new dwelling. Condition 3 of both of these approvals was worded differently to that of the reserved matters application to reflect the details and methodology demonstrating how the closure of the access would be undertaken. The amended wording of the conditions is detailed below:

#### **19/0868/VAR**

*“The dwelling hereby approved shall not be occupied until the works to permanently close the unauthorised access created in the south eastern corner of the site onto Stony Lane shall have been undertaken in accordance with the Hedge Reinstatement works specified in Document reference R2451AL-DV prepared by A.M. Lane Ltd, dated 28.05.19 and received by EDDC on 31 May 2019. The access shall thereafter remain closed in perpetuity.*

*(Reason - To ensure that the unauthorised access is permanently closed in the interests of highway safety and visual amenity in accordance with the requirements of Policies D1 (Design and Local Distinctiveness) and TC7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan 2013-2031.)”*

#### **20/0568/VAR**

*“The dwelling hereby approved shall not be occupied until the works to permanently close the unauthorised access created in the south eastern corner of the site onto Stony Lane shall have been undertaken in accordance with the Hedge Reinstatement works specified in Document reference R2451AL-DV prepared by A.M. Lane Ltd, dated 28.05.19 and received by EDDC on 31 May 2019, in respect of the approval*

*granted under reference 19/0868VAR. The access shall thereafter remain closed in perpetuity.*

*(Reason - To ensure that the unauthorised access is permanently closed in the interests of highway safety and visual amenity in accordance with the requirements of Policies D1 (Design and Local Distinctiveness) and TC7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan 2013-2031.)”*

## **POLICIES**

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

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

### **Government Planning Documents**

NPPF (National Planning Policy Framework 2019)

National Planning Practice Guidance

## **Site Location and Description**

The application site comprises part of the garden associated with Bridge Farm which is located to the west of the site, and which is sited within the open countryside beyond the eastern edge of the village of Woodbury Salterton.

A new dwelling is currently under construction on the site, with an access having been formed in the southern boundary onto Stoney Lane.

## **Proposed Development**

Planning permission is sought to vary condition 2 and remove condition 3 of permission granted under reference 20/0568/VAR to allow the access onto Stony Lane to be retained on a permanent basis, the previously approved driveway to be removed from the plans and a new amended drive arrangement to serve the new dwelling.

Condition 2 related to the approved plans, with the revised plans reflecting the proposed alterations to the layout of the site, access and driveway.

Condition 3 states:

*The dwelling hereby approved shall not be occupied until the works to permanently close the unauthorised access created in the south eastern corner of the site onto*

*Stony Lane shall have been undertaken in accordance with the Hedge Reinstatement works specified in Document reference R2451AL-DV prepared by A.M. Lane Ltd, dated 28.05.19 and received by EDDC on 31 May 2019, in respect of the approval granted under reference 19/0868VAR. The access shall thereafter remain closed in perpetuity.*

*(Reason – To ensure that the unauthorised access is permanently closed in the interests of highway safety and visual amenity in accordance with the requirements of Policies D1 (Design and Local Distinctiveness) and TC7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan 2013-2031).*

This application does not seek any alterations to the design of the dwelling under construction.

## **ANALYSIS**

The main issues to be considered in the determination of this application relate to the implications of retaining the access onto Stony Lane; including any visual or highway safety impact, and whether any material changes have occurred which would now make its retention acceptable.

### **Acceptability of retaining the access**

As the previous planning history of the site has demonstrated, the impact of creating an access has been ongoing since development of the application site was first proposed. Throughout the process significant concerns have been presented relating to the visual harm caused by the formation of the access, with two Planning Inspectors having considered it and found it to be unacceptable. In planning terms there is not considered to be any material alteration to planning policy which would allow the access to be retained.

It is noted that a highway safety concern has been raised due to the limited width of the access and lack of visibility splays. This is based on the access which exists which fails to meet highway standards. The previous applications were not refused on highway safety grounds because visibility splays complying with the required standards were indicated on the plans, the creation of which further compounded the visual impact of the widened access.

The response from the Councils Arboricultural Officer is also noted, however the issue of the balance between the removal of trees within the site and the visual impact arising from the creation of the access was addressed in both of the appeal decisions. In respect of the appeal relating to the retention of the access the Inspector considered that whilst finely balanced the loss of some trees within the site would be outweighed by the significant loss of hedgerow, and subsequent visual impact, to make way for the enlarged access. With regard to the current application, there is the added harm from inadequate visibility for vehicles.

In considering the current application, the balance is between retaining an access which is substandard in highway safety terms and which has a detrimental visual impact on the character and appearance of this part of Stony Lane, and the convenience of the future occupiers of the dwelling, and the retention of a number of



trees on the site. In this respect the findings of the previous Planning Inspectors are considered to remain valid and that the access should be removed and the hedgerow reinstated. The Inspector for the second dismissed appeal stating the following:

'My colleague's decision states that the provision of a safe access with the appropriate visibility splays could be provided, but at an unacceptable environmental cost, both visually and possibly in ecological terms, as a substantial length of hedgerow would have to be removed, with a partial translocation to a position to the rear of the visibility splays.

The alternative would be to use the existing access serving Bridge Farm, as a joint access for the host dwelling at Bridge Farm and the new house being promoted by the Appellant. This option would necessitate the construction of a new driveway which would connect with the proposed housing site along the southern edge of the plot. This could necessitate the widening of the existing access serving Bridge Farm and the removal of a group of trees along the southern side of both the host plot and the proposed new plot.

The decision as to which of these two options is the most appropriate and least harmful in planning terms is finely balanced. Whilst there would be some loss of trees connected with the joint access solution, it is my view that this would be outweighed by the loss of a significant section of hedgerow to make way for the enlarged access directly onto Stony Lane. This section of Stony Lane is completely rural in character, which is primarily defined by the mature hedgerows on both sides of the road.

The loss of such a significant section of hedgerow would have the effect of urbanising the character of Stony Lane beyond the existing confines of the village. The impact of opening up such a substantial length of hedgerow would be further increased by affording direct views of the proposed house and other domestic structures which would be likely to follow.

It is pertinent to note of course that in addition to the above concerns, the current proposal has resulted in an objection from the Highway Authority on the basis of inadequately visibility which adds to concerns over the retention of the current access.

The volume of support received in respect of the retention of the access is noted, although it is the benefits of the creation of a passing place, and the retention of trees on the site rather than the access to the dwelling which appear to be the main basis for support. It is maybe not surprising that some people may see the retention of trees as a greater benefit than the re-instated bank and hedge given that the benefits from this cannot be seen. It is also material that those trees could be felled without consent at any time.

County Highways have suggested that should the applicant wish to retain a passing place, this may be possible through retaining the mouth of the access with reinstated bank and planting behind. They have advised that visibility for a passing place would be acceptable whilst visibility for a car pulling onto the road from the access is substandard and dangerous.

Overall given that there are no material change in circumstances which have arisen since the formation of the unauthorised access and the visual scar created by it, it is considered that planning permission should be refused for the variation of condition 2 and removal of condition 3, and the access be permanently closed prior to the occupation of the dwelling, in accordance with the details previously approved.

### **RECOMMENDATION**

REFUSE for the following reasons:

1. The removal of a significant length of hedgerow and development to create an access in this location is visually intrusive and has a detrimental impact on the verdant nature and rural character of this part of Stony Lane. As such the proposal is contrary to Strategy 7 (Development in the Countryside) and Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031.
2. The proposed development would be likely to result in an access which does not provide adequate visibility from and of emerging vehicles, contrary to Policy TC7 (Adequacy of Road Network and Site Access) and the guidance within the National Planning Policy Framework.

### NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

### Plans relating to this application:

2093 37.1 E : 1	Proposed Site Plan	29.03.21
2093 37.2 E : 2	Proposed Site Plan	29.03.21

### List of Background Papers

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

**Ward** Newton Poppleford And Harford

**Reference** 20/2901/FUL

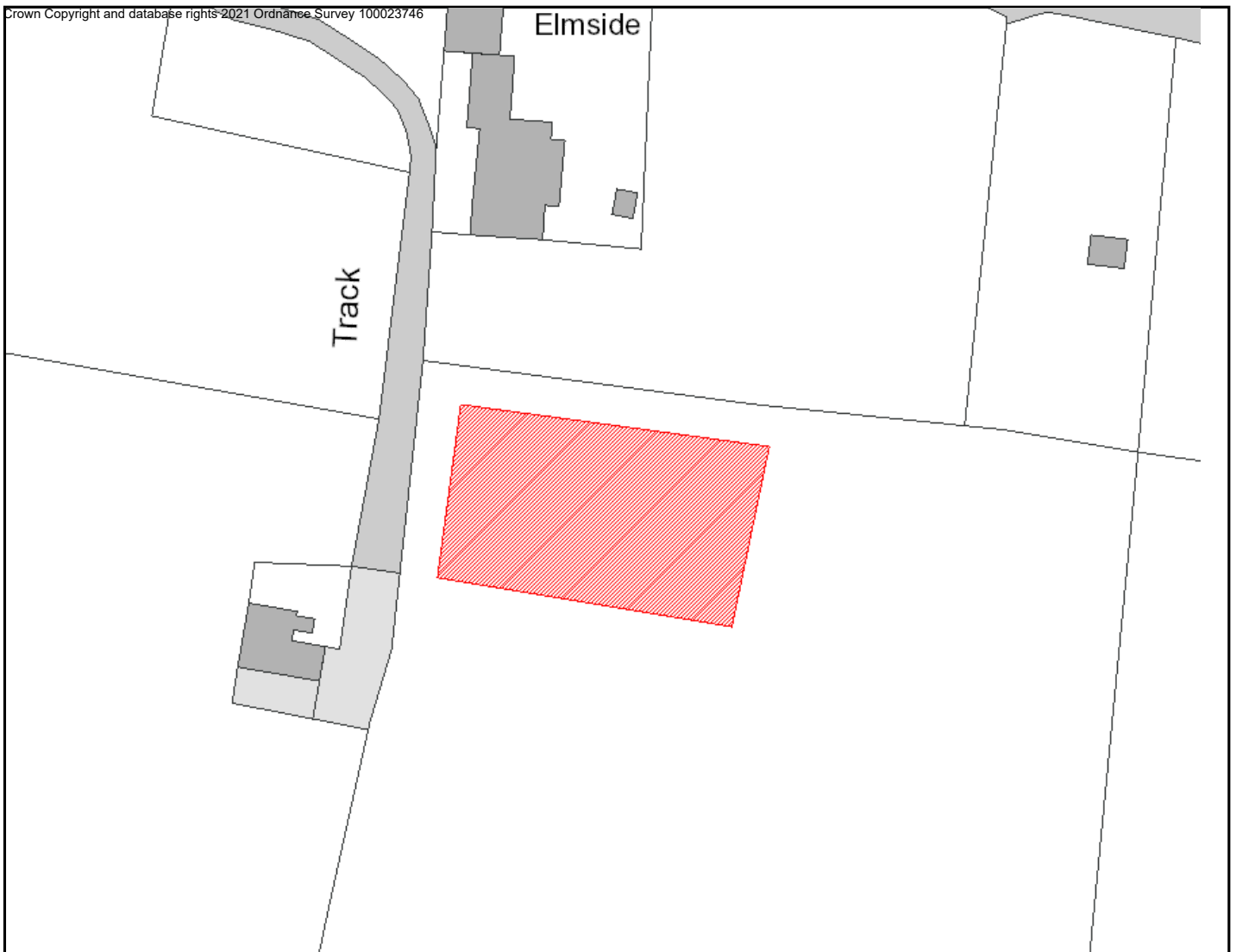
**Applicant** N. Cochrane

**Location** Grange Farm Newton Poppleford Sidmouth  
EX10 0BY

**Proposal** Change of use of agricultural land to equestrian  
and construction of a menage



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 14<sup>th</sup> June 2021</b>
<b>Newton Poppleford And Harpford (Newton Poppleford And Harpford)</b>	<b>20/2901/FUL</b>	<b>Target Date: 01.03.2021</b>
<b>Applicant:</b>	<b>N. Cochrane</b>	
<b>Location:</b>	<b>Grange Farm Newton Poppleford</b>	
<b>Proposal:</b>	<b>Change of use of agricultural land to equestrian and construction of a ménage</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before members as the officer recommendation differs from the views of a Local Ward Member.**

**The application seeks permission for the construction of a ménage at Grange Farm. The construction of the main farmhouse was allowed at appeal in 1987 with the tie being removed in 1988. It is understood that horses have been stabled at Grange Farm for over 20 years and, in light of approval of 19/1999/FUL on appeal, that includes the removal of the existing ménage, the construction of a new facility is sought.**

**The main issue for consideration is the loss of Grade 1 agricultural land. This particular issue has prompted objections from both the Local Ward Member and Parish Council.**

**The National Planning Policy Framework states that Local Authorities should protect the most versatile (BMV) agricultural land from significant, inappropriate or unsustainable development proposals and manage soils in a sustainable way. This particular part of the NPPF is reflected within the provisions of EN13 (Development on High Quality Agricultural Land of the Local Plan.**

**The applicant has emphasized that the need for an all-weather surface to be available at all times of the year to ride and exercise horses stabled at the site. Furthermore, the applicant's daughter is described within the application as a talented young rider who has achieved success at various dressage competitions from grassroots to national level and the site does not appear to be in agricultural use.**

**In this instance the loss of Grade 1 agricultural land is considered minor and would not cause any harm to the productive output of an existing agricultural enterprise. However it is acknowledged that permission would result in the permanent loss of some of the best and most versatile agricultural land within the district. Despite this, in light of the justification given for the development, the historic use of the site for equine purposes and the modest area of land to be developed, it is not considered reasonable for the application to be refused on the grounds of loss of grade 1 agricultural land.**

**The application is considered acceptable on all other regards as detailed within the main body of the report. As such, the application is recommended for approval subject to conditions listed.**

## **CONSULTATIONS**

### **Local Consultations**

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

The Parish Council met on 25th January to consider this application and, as a result, is NOT in support of this application for the reasons outlined below, as per the relevant policies of our Neighbourhood Plan which (whilst not yet 'made' due to CV19 delays) does carry weight in planning terms:

Council asserts that this application is in contravention of Policies EP1 and EP7:

#### **Policy EP1 - Conservation and enhancement of the East Devon AONB and Natural Environment**

The AONB and natural environment is very important to residents so conservation must be a primary planning consideration. This includes the protection and enhancement of the East Devon AONB, areas classed as SSSI, SPA and SAC, the biodiversity, existing habitats, protected and priority species, ancient or species-rich hedgerows, grasslands and the landscape and the rural character of the village.

All developments, including for agriculture and extensions to existing buildings, should:

- a) give great weight to conservation and enhancement of the natural environment;
- b) not encroach upon, interfere with, or lead to the deterioration of existing rare or important habitats or watercourses, or degrade the visual quality, natural beauty, wildlife and cultural heritage of the rural landscape;
- c) not include the netting of trees and hedges;
- d) contribute towards the ecological network of the area with appropriate measures to enhance bio-diversity;
- e) safeguard open countryside and cherished public views from inside and outside the parish as identified on Map 9;
- f) not protrude above, or appear dominant when viewed against skylines or significant lines or groups of large, mature trees;
- g) maintain and where appropriate, extend tree cover;
- h) avoid causing damage from leisure use (e.g. equestrian, motorbikes, etc.)

#### **Policy EP7 - Development on Farmland for Agricultural Purposes**

Where existing buildings cannot be used or adapted, proposals for development of new agricultural buildings excluding residential uses, on working farmland which require planning permission should be of a scale and form:

- a) which do not compromise or have adverse impacts on the quality of the environment and the special landscape character of the East Devon AONB;
- b) that does not cause soil compaction and increase run-off into watercourses;
- c) which do not result in the loss of and help to retain and reinforce local agricultural practices traditional to the Parish and the East Devon AONB, such as:
  - i. the protection of Devon banks and hedgerows, small areas of coppice and wildlife corridors;
  - ii. the provision of buildings to support livestock principally to be kept outside;
- d) which retain the integrity of historic farm buildings; and
- e) where any increase in traffic movement including HGVs can be safely accommodated on the rural road network and, provide solutions to mitigate increases in traffic caused by the development.

A Landscape and visual impact assessment, proportionate to the scale of development, will be required to demonstrate that the siting and design of the new development is appropriate and that any landscape and visual impacts are appropriately mitigated. Farmers, landowners and developers are encouraged to engage with the local community and Parish Council at the earliest opportunity.

#### EP7 ' Policy Overview

Planning permission will be refused for development on the best and most versatile agricultural land, meaning land in grades 1, 2 and 3a of the Agricultural Land Classification, unless it involves development for the purposes of agriculture and forestry. East Devon Local Plan Strategy 6 and Policy EN13 will be applied to safeguard the best and most versatile land. The Parish of Newton Poppleford and Harpford contains much agricultural land which gives it much of its character. Unfortunately, this land can be considered by developers as prime land for development so every effort must be made to ensure the agricultural category of the land is not downgraded in order to make development permissible.

#### Newton Poppleford And Harpford - Cllr V Ranger

I do echo the parish councils concerns about the Change of use and thus further loss of prime quality designated agricultural land. As well as the Local Plan and AONB considerations I also refer to the Neighbourhood Plan which carries considerable weight in planning applications.

#### Newton Poppleford and Harpford neighbourhood Plan

EP7 ' Policy Overview Planning permission will be refused for development on the best and most versatile agricultural land, meaning land in grades 1, 2 and 3a of the Agricultural Land Classification, unless it involves development for the purposes of agriculture and forestry. East Devon Local Plan Strategy 6 and Policy EN13 will be applied to safeguard the best and most versatile land. The Parish of Newton Poppleford and Harpford contains much agricultural land which gives it much of its character. Unfortunately, this land can be considered by developers as prime land for development so every effort must be made to Referendum Version ' 30 September 2020 ensure the agricultural category of the land is not downgraded in order to make development permissible.

I therefore object to this application.

### **Technical Consultations**

#### **Devon County Archaeologist**

Grange Farm Newton Poppleford Sidmouth EX10 0BY - Change of use of agricultural land to equestrian and construction of a menage: Historic Environment

My ref: Arch/DM/SH/36215a

I refer to the above application. The proposed development lies in an area of archaeological potential with regard to known prehistoric activity in the surrounding landscape. The Historic Environment Record indicates the presence of prehistoric activity by records of findspots of flint tools from nearby fields as well as the presence of a prehistoric or Romano-British ditched enclosure some 200m to the north-east. In addition, historic fieldname evidence indicates the potential presence of prehistoric funerary monuments in this area. As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with these heritage assets. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

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

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2019) and Policy DEV21 in the Plymouth and South West Devon Joint Local Plan 2014 - 2034, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

#### **Reason**

'To ensure, in accordance with Policy DEV21 in the Plymouth and South West Devon Joint Local Plan 2014 - 2034 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development'

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

I would envisage a suitable programme of work as taking the form of the archaeological monitoring and recording of all groundworks associated with the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

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

#### Other Representations

None

### **POLICIES**

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

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN13 (Development on High Quality Agricultural Land)

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

#### Newton Poppleford Neighbourhood Plan (Made)

Policy T2 (Traffic Calming)

Policy EP1 (Conservation and Enhancement of the East Devon AONB and Natural Environment)

Policy EP6 (Local Amenity)

Policy EP7 (Development on Farmland for Agricultural Purposes).

#### Planning History

- 87/P0755 (OUTLINE) Farmhouse & Outbuildings. REFUSED (appeal allowed)
- 88/P0686 House & Garage. APPROVED
- 95/P1155 - Change Of Use Of Machinery Store & Workshop To Class B1,b2 Or B8. REFUSED



- 97/P1516 - Change Of Use To Equestrian & Erection Of Eight Stables. REFUSED Appeal Dismissed
- 19/1999/FUL - Conversion of barn to dwelling including external alterations, change of use of equestrian arena to residential curtilage, formation of access driveway, and installation of package sewage treatment plant. APPROVED (appeal allowed)

### **Site Location and Description**

The application site is located half a mile north of the settlement boundary for Newton Poppleford. The area of land where the proposal relates forms part of a larger holding that extends north past the road from Badgers Hill to Brooklands Cross. The applicant resides at the former farmhouse known as Grange Farm and is accessed off the public highway immediately to the north.

The application site is located within the East Devon Area of Outstanding Natural Beauty. Whilst the immediate landscape is characterised by lower rolling farmed and settled slopes, the application site is situated on fairly flat land largely obscured from public view by established hedgerows that enclose individual fields or border adjoining highways.

### **Proposed Development**

The application seeks permission for the construction of a ménage, measuring 45 x 25 metres, on land that has historically been used as a paddock. The submitted sections indicate that, to facilitate construction, a degree of cut and fill shall be required. The ménage would largely consist of fibre sand upon a crushed stone layer, encased with a membrane layer to provide drainage. The area would be enclosed by low level kick boards.

### **Analysis**

The main issues for consideration are the principle of development, visual impact and loss of agricultural land.

### **Principle of Development**

The site lies outside of any built up area boundary and is therefore located within the open countryside, where Strategy 7 (Development in the Countryside) states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

Policy RC4 - (Recreation Facilities in the Countryside and on the Coast) supports the principle of recreation facilities in association with uses such as horse riding within the countryside where these can be accommodated safely and are not detrimental to the landscape. The policy is worded in full below:

#### **RC4 - Recreation Facilities in the Countryside and on the Coast**

Planning permission will be granted for outdoor recreation facilities in the countryside and on the coast provided that the nature of the activities undertaken or the space requirements of the proposal require a countryside or coastal location and:

1. The facilities or development proposals are in scale with the character, environmental characteristics and setting of the area and do not conflict with countryside, nature or landscape policies, nor detract from the amenities of the area.
2. The proposals allow for safe access and discreet parking arrangements, particularly in environmentally sensitive areas, and do not result in the loss of or cause unacceptable disruption to existing public rights of way.
3. On site facilities should be appropriate to meet the needs of the proposal and links with adjacent footpaths and bridleways should be suited to any proposed site uses.

Where indoor areas are required use should be made of existing buildings. Any new buildings and necessary extensions should be limited in scale and be in close proximity to existing groups of buildings or an existing settlement. Where it is proposed to extend or intensify an existing use the cumulative effect of the use will be considered in the interests of the character of the area.

As such, the principle of development is accepted subject to criteria 1, 2 and 3 being satisfied. The requirements of Policy RC4, in addition to other policy within the Local Plan and Neighbourhood Plan, shall be discussed in further detail below.

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

Strategy 46 - Landscape Conservation and Enhancement of AONBs states that development must be undertaken in a manner that is sympathetic to and helps conserve the and enhance the quality and local distinctiveness of the natural and historic character of East Devon, in particular Areas of Outstanding Natural Beauty. Development will only be permitted where it:

1. Conserves and enhances the natural landscape
2. Does not undermine landscape quality
3. Is appropriate to the economic, social and wellbeing of the area.

Additionally, paragraph 172 of the National Planning Policy Guidance (NPPF) states that great weight is given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.

The application site is bordered by Elmside, a residential property, to the north. The boundary between the ménage and curtilage of Elmside is defined by a tall beech hedge that consists of a number of trees that would screen views of the development from the adjoining highway. The wider area, between Southerton and Harpford can be accessed through a network of public rights of way. Views of the application site along Footpath 16 to the east are largely screened by established hedgerow that encloses Homefield despite parts of the right of way being significantly above the ground level of the development. The land to the south gradually rises and then falls away providing limited views, if any, of the application site from the road between the allotments and

Nutlea. Potential views from the west along Footpath 21 are also screened by trees along the right of way and the existing western boundary of the application site.

As such, it is considered that the proposed ménage would have limited visual harm upon the character and appearance of the area and aesthetic value of the AONB. In addition, in views toward the site, it is not unusual to see a ménage within the countryside.

Consideration has also been given to the level of engineering works required to facilitate the development. Drawing 2020\_193\_01 communicates the level of 'cut and fill' required to provide a level surface. The extent of works required, and subsequent visual impact, is not deemed excessive or unduly harmful to the natural profile of the land. Whilst it is acknowledged that there would be a loss of green paddock, that is more characteristic to this countryside location compared to the proposed manmade structure, the magnitude of change is considered low. The subsequent visual impact is also confined to a small area of land and only perceptible from private views.

In light of the above, the proposed construction of the ménage would meet the objectives and provisions of Strategy 46(Landscape Conservation and Enhancement and AONBs) of the Local Plan and Policy EP1 (Conservation and Enhancement of the East Devon AONB and Natural Environment) of the Neighbourhood Plan.

### **Loss of Agricultural Land**

Concerns have been raised by the Parish Council and Local Ward Member over the loss of Grade 1 agricultural land and subsequent conflict with Policy EP7 (Development on Farmland for Agricultural Purposes) of the Neighbourhood Plan that does not permit non-agricultural development on Grade 1 agricultural land.

The National Planning Policy Framework states that Local Authorities should protect the most versatile (BMV) agricultural land from significant, inappropriate or unsustainable development proposals and manage soils in a sustainable way. This particular part of the NPPF is reflected within the provisions of EN13 (Development on High Quality Agricultural Land) of the Local Plan.

The preamble to Local Plan policy EN13 explains that many of the areas of within the district that exhibit the highest quality of agricultural land are in close proximity to settlements where pressures for development are amongst the greatest.

There is an existing ménage located forward of the barn to the south. However application 19/1999/FUL (allowed on appeal), for the conversion of the building to a residential dwelling, would see the removal of this and the land incorporated in to the dwelling's garden area.

Considering this application, there are considered to be good reasons put forward for allowing the development in this instance.

Firstly, the applicant has emphasized that the need for an all-weather surface to be available at all times of the year to ride and exercise horses stabled at the site remains. Furthermore, the applicant's daughter is described within the application as a talented

young rider who has achieved success at various dressage competitions from grassroots to national level. She also currently travels to receive jump training. As part of her continued development there is a requirement for a ménage to be available on site that meets certain size standards in order to replicate facilities used whilst competing at dressage competitions. There is also a need to facilitate jump training from home.

EN13 requires that an 'overriding need' is identified if high quality agricultural land is to be lost. In this case, it is felt reasonable to use a sliding scale to assess the level harm caused, if any, against the need or benefits of the development. In light of the reasons highlighted above, the fact that the applicant does not own any other land in their ownership at a lower grade classification, that the loss of agricultural land relates to a fairly small area, it is felt that the need identified tips the balance in favour of the development.

Finally, it is also felt important to note that the land in question has been used as a paddock for a substantial length of time. The applicant claims that the use of the land as a paddock has occurred continuously for a period in excess of 20 years. Aerial imagery available to the Local Authority indicate that the entire parcel of field where the ménage is to be located was last being actively farmed in 1999 and this appears to have ceased at some point prior to 2005. The area of land to be developed is not part of an active working farm and its loss, owing to the significant amount of time the land has been used for equine purposes, is unlikely to have a significant adverse impact on the stock and productive output of Grade 1 agricultural land within the village or wider district.

In light of the need and benefit from the proposal, its small area, lack of alternatives for the applicant, and the land having not been farmed for many years, it is considered that a refusal of planning permission on the grounds of the loss of this small area of Grade 1 agricultural land could not be upheld on appeal.

### **Impact on Highway Network**

The facility shall only be used for private purposes and therefore not substantively add to the footfall of traffic to the local area. No additional parking is thought to be needed. No objections have been raised by the County Highway Authority. Despite this, commercial use of the facility could have an adverse impact on the local highway network and therefore a condition shall be recommended restricting the development's use.

### **Impact on Neighbouring Amenity**

The ménage would be located in close proximity to the northern boundary shared with the residential property of Elmside. Owing to the historical use of the land as a paddock it is unlikely that the use of the facility would give rise to additional adverse impacts. There is a likelihood that during jumping training that the sound of horses and individuals maybe audible from the property. However, owing to the use being for private purposes, it is anticipated that these impacts would only be experienced through short bursts during the day and week. The application has not detailed any installation of floodlighting and therefore use would also be restricted to daylight hours.

Overall there are no concerns over the impact of the development upon the amenity of adjoining residents.

### **Archaeological Potential**

The county Historic Environment Team has identified the potential for archaeological and artefactual deposits. As such a condition has been recommended for the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest.

### **CONCLUSION**

In this instance the loss of Grade 1 agricultural land is considered minor and would not cause any harm to the productive output of an existing agricultural enterprise. However it is acknowledged that permission would result in the permanent loss of some of the best and most versatile agricultural land. Despite this, in light of the justification given for the development, the need and benefit identified, the historic use of the site and the modest area of land to be developed, it is not considered reasonable for the application to be refused on the grounds of loss of grade 1 agricultural land. As such the application is recommended for approval subject to conditions listed below.

### **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 development hereby permitted shall be used solely for private use and shall not be used for any equestrian centre, riding school or other business or commercial purpose.  
(Reason - To ensure that the Local Planning Authority retains control over the use as commercial uses may give rise to additional planning issues and to comply with Strategy 7 - Development in the Countryside of the East Devon Local Plan 2013-2031.)
4. No external lighting shall be erected to illuminate the ménage hereby permitted.  
(Reason: To prevent light pollution and to protect the character and appearance of the AONB in accordance with Strategy 46 Landscape Conservation and Enhancement and AONBs and Policy EN14 Control of Pollution, of the East Devon Local Plan).

5. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

(Reason: To ensure, in accordance with Policy DEV21 in the Plymouth and South West Devon Joint Local Plan 2014 - 2034 and paragraph 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development')

#### 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:

2020-193-01 sheet 5 of 5 : arena construction	Other Plans	04.01.21
2020-193-01 sheet 2 of 5 : existing topographic	Landscaping	04.01.21
2020-193-01 sheet 1 of 5	Location Plan	04.01.21
2020-193-01 sheet 3 of 5	Proposed Site Plan	04.01.21
2020-193-01 sheet 4 of 5 : proposed site	Sections	04.01.21

##### List of Background Papers

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

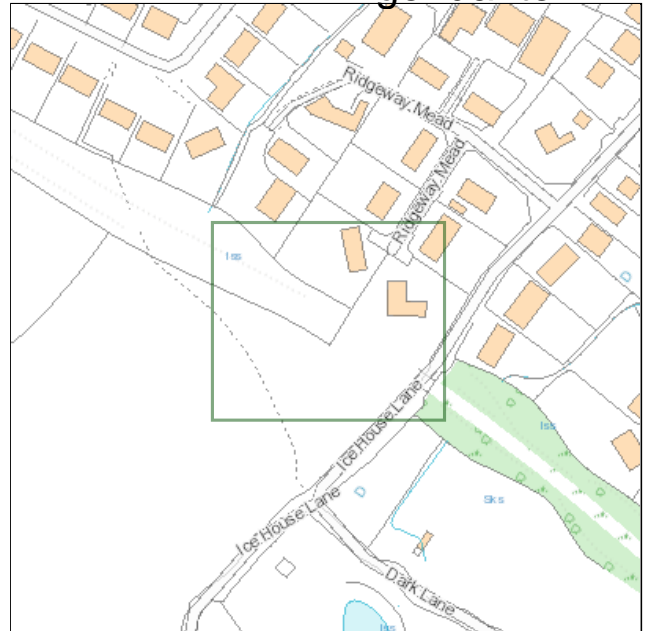
**Ward** Sidmouth Sidford

**Reference** 21/0497/FUL

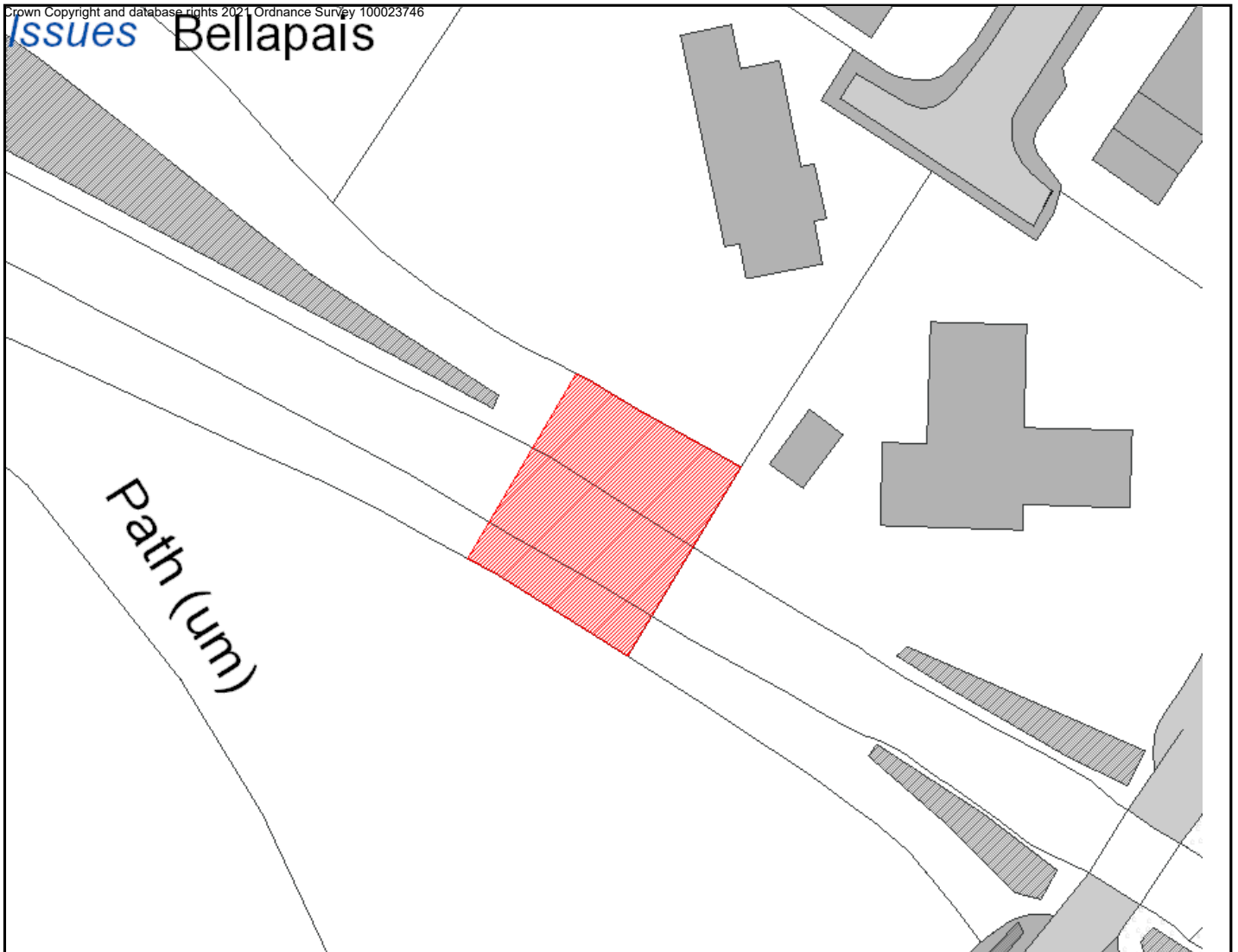
**Applicant** Mr & Mrs A Jarrett

**Location** 4 Ridgeway Mead Sidmouth EX10 9DT

**Proposal** Change of use of former railway line to residential garden area



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 14<sup>th</sup> June 2021</b>
<b>Sidmouth Sidford (Sidmouth)</b>	<b>21/0497/FUL</b>	<b>Target Date: 22.04.2021</b>
<b>Applicant:</b>	<b>Mr &amp; Mrs A Jarrett</b>	
<b>Location:</b>	<b>4 Ridgeway Mead Sidmouth</b>	
<b>Proposal:</b>	<b>Change of use of former railway line to residential garden area</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**The application is before committee because the applicant is a member of staff and as the officer recommendation is contrary to the view of a Ward Member.**

**This is an application for change of use of land situated on the former railway line to private garden.**

**Whilst it is acknowledged that policy TC5 of the Local Plan seeks to safeguard former railway lines from development, permission was granted in 2010 for an adjoining piece to land to change to garden. In addition, feasibility studies have concluded that it is no longer possible to use this formal railway line as a cycle path with an alternative route through Sidmouth being proposed. On this basis, and given that the applicant already owns the land, there is no objection from Sustrans, Devon County or the Town Council, the change of use is considered to be acceptable.**

**It is not considered that there is an impact on visual amenity by way of the proposed change of use.**

**As such the application is therefore considered acceptable.**

#### **CONSULTATIONS**

**Parish/Town Council**  
Support

**Sidmouth Sidford - Cllr Stuart Hughes**

As one of the local District Council members I wish to make the following observations on this application.



This is part of the route required and safeguarded for the Sidmouth to Feniton Cycle/Multi Use Trail.

I therefore do not support this application

#### Other Representations

One representation has been received stating that the route of the railway line should be protected for alternative uses in the future.

### **POLICIES**

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

D1 (Design and Local Distinctiveness)  
TC5 (Safeguarding Disused Railway Lines)  
Strategy 6 (Development within Built-up Area Boundaries)

#### Sid Valley Neighbourhood Plan (Made)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2019)

### **Site Location and Description**

4 Ridgeway Mead is a detached bungalow situated at the end of a cul-de-sac within the built up area of Sidmouth. Behind the property lies the former Sidmouth to Tipton St John railway line. Part of this land was changed into the garden of this property in 2010 as part of application 09/1991/FUL.

### **Proposal**

The application is for the change of use of a further adjoining portion of land measuring some 13 metres by 15.5 metres to the north of the existing garden, from former railway line into domestic garden.

The applicant's already own the land.

### **Relevant planning history**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
09/1991/FUL	Single and two storey extension , new dormer window and retention of change of use of land as garden	APPROVED	13.01.10

### **Assessment**

The main issues for consideration are the protection of the railway line and the visual impact from the development.

### **Protection of Railway Line**

Policy TC5 of the Local Plan states that the 'Council will resist the granting of planning permission for development on undeveloped sections of disused railway lines which have potential for re-use as a transport and recreation route, if it prejudices the future ability of the route to perform this function.'

The preamble to this policy names a number of routes which are listed as having the potential for recreation routes. This includes Sidmouth to Tipton St John. This branch line was closed in 1967. No tracks remain, but in some places the cuttings and bridges are left and the route is clearly discernible. In other parts, such as Bulverton Park, houses have been built over the route.

Various studies and proposals have been undertaken in more recent years to bring part or all of the line back to use. This includes a feasibility study by Sustrans in 2014 to introduce a cycle path (Feniton to Sidmouth (Otter Valley) Trail). The study acknowledged that it is not possible to utilise the whole of the former route for that purpose, and in Sidmouth the preferred route would utilise the existing paths in The Byes before connecting to the seafront, rather than mimicking the route of the old railway, which finished at the Old Station on the corner of Alexandria Road. It is not wholly clear where the route would diverge from the old line (the study refers to ongoing landowner negotiations) but it may be possible to use or widen the existing footpath which connects Higher Woolbrook Park with Dark Lane, which would then be able to use quiet roads and connect with paths elsewhere.

Sustrans have been consulted on the proposal, and no comments have been received. After the initial comment from the ward member and contributor, further information was given by the applicant. A further consultation then took place, to which no comments were received.

It is also important to reiterate that an existing section of the garden of 4 Ridgeway Mead was previously part of the old railway line and was granted permission in 2010 under planning application 09/1991/FUL for a change of use to garden. A similar local plan policy existed at the time to TC5 (Policy TA5- Safeguarding Railway Lines).

Protection of the railway line is not referenced in the 'Made' Neighbourhood Plan for the area, Sidmouth Town Council are supporting the proposal, and the County Highway Authority are not objecting to the proposal either. This all adds weight to this part of the former railway line no longer being considered as a feasible route for protection.

In light of the above, given that part of the garden has already been developed, and given that the applicant already owns the land, it is not considered that the change of this piece of land to form a garden would prejudice the wider aims of Policy TC5.

### **Visual Impact**

The proposal would largely see the land remain as grass or garden area, with the proposed introduction of timber post and rail fencing to the north. It is considered that the visual impact of the change to garden will be minimal, providing that the installation of structures on the land is prohibited via an appropriate condition.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works within the Schedule Part 1 Class E for the provision within the garden hereby permitted of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouses as such.  
(Reason - To protect the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

## 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](mailto:cil@eastdevon.gov.uk).

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:

2912

Proposed Combined  
Plans

19.02.21

List of Background Papers

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