

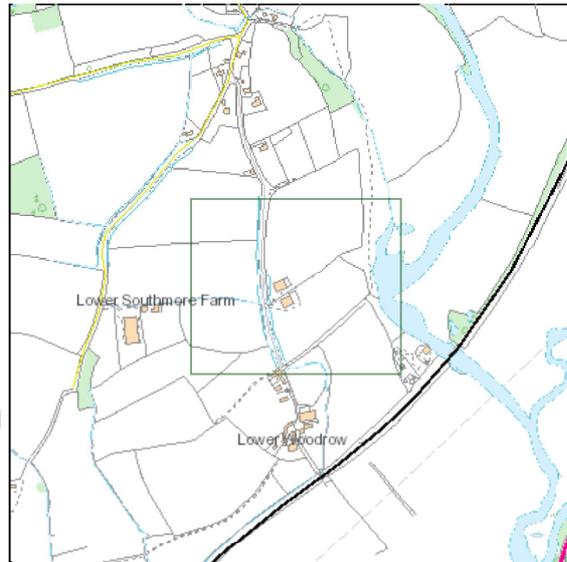
Ward Exe Valley

Reference 20/1258/FUL

Applicant Mr Ben Blackburn (Drum Construction)

Location Lower Southmoor Farm Bramford Speke Exeter EX5 5DY

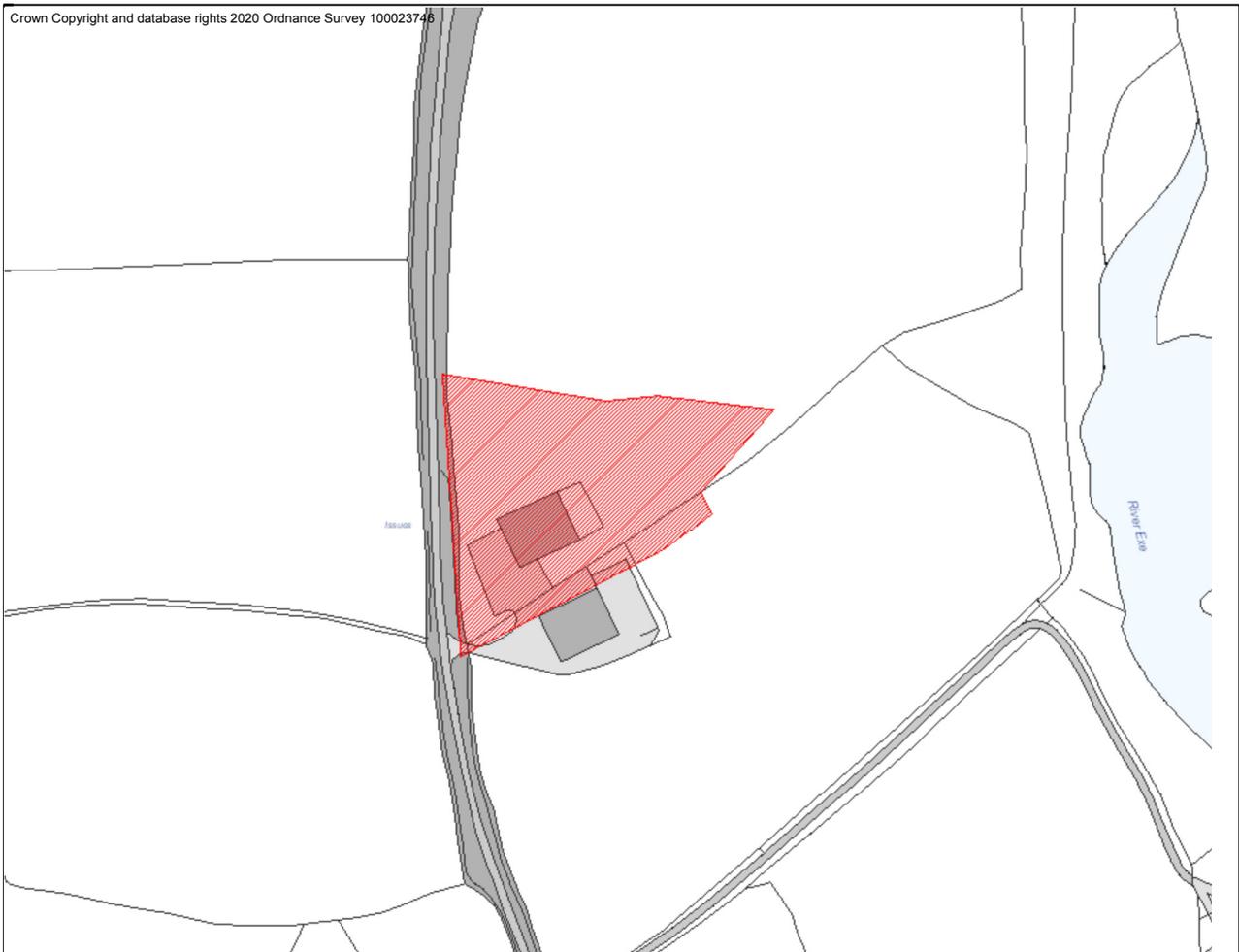
Proposal Application to replace barn with PDQ consent (20/0129/PDQ) for conversion to 2 no larger residential dwellings, with 2 no detached dwellings.



RECOMMENDATION:

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

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		Committee Date: 2nd December 2020
Exe Valley (Brampford Speke)	20/1258/FUL	Target Date: 19.08.2020
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Location:	Lower Southmoor Farm Brampford Speke	
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EXECUTIVE SUMMARY

This application is before Members as the officer recommendation is contrary to the view of the Ward Member.

Planning permission is sought for the removal of an agricultural barn within the open countryside and its replacement with two dwellings with associated parking and gardens.

Proposals for isolated dwellings within the open countryside are usually resisted, however consent granted under the prior notification 20/0129/PDQ application permits the existing barn to be converted into two large residential dwellings, and is deemed to be a material planning consideration. The case of Mansell v Tonbridge and Malling Borough Council, heard at the Court of Appeal, concluded that the availability of permitted development rights can properly be taken into account as a fall-back position where some alternative form of development scheme is then proposed. In this respect there is considered to be a realistic fall-back position through the previous approval enabling the applicant to apply for the two dwellings as an alternative development.

Although alternative provision of two dwellings is therefore acceptable in principle, the visual and other impacts from the revised proposal require consideration. It is considered that whilst the proposed new dwellings would be of a different form and design to the conversion of the barn, there would be some marginal betterment arising from the development through a better conceived design and visual impact, which would lead to a marginal enhancement to the

character of the area rather than the visual impact from a conversion of a building that was not designed for residential purposes.

Overall the design, scale and impact of the proposed development is considered to be reasonable, and given the fall-back position and in view of case law, the application is considered to be acceptable and recommended for approval.

CONSULTATIONS

Local Consultations

Exe Valley - Cllr Fabian King

This application has generated concern in the Brampford Speke community represented by the Brampford Speke Parish Council because the Applicant has not engaged with them

I am concerned that a class Q consent was granted some 5 months ago to convert the barn into two attached dwellings. However, the current application requires that barn to be removed and two new independent dwellings to be erected in separate locations some distance from the current barn.

This development relies on the permission (granted in March 2020) for the re-use of a rural building outside of settlements, Policy D8, where section 2 states it 'will be permitted where the building is structurally sound and capable of conversion, alteration or reconstruction.'

The current application is not faithful to the basis of that Initial granted permission and the policy condition it relies upon.

I have been requested to call this application in to the Planning Committee for their consideration, which I do so here in this comment. Furthermore I am requesting that the Parish Council submit their own comments as a Statutory Consultee.

I do not support this application as it currently rests upon a false premise of reusing an existing rural building, which it does not. Furthermore it does not offer any substantial benefit to the community of Brampford Speke.

Further comments on Amended Plans:

I do not believe that the new design makes any improvement on the situation which gave rise to the original objection.

The Parish Council do not agree that the new design is a betterment of the original Class Q.

Furthermore, the proposed design is contrary to Policy D8 ' Re-use of Rural Buildings Outside of Settlements and the Parish Council has set out the convincing reasons why this is so.

I fully support the Parish Council's objections and I join in objecting on my own account.

A further comment: I confirm my request for this application to be called in if Planning West is inclined to approve it.

Parish/Town Council

Bramford Speke Parish Council objects to this application to replace a barn at Southmoor Farm with existing Class Q consent with 2 detached dwellings.

The Parish Council understands that the fall-back position if this proposed development is not approved is that the existing Class Q consent of two attached dwellings converted from the original barn would be built out. It is the Parish Council's view that the proposed development is not a betterment of the original Class Q in terms of design, footprint and affordability of the new units for local residents. The fall-back position is a material consideration and should carry greater weight than the new proposal, unless the Planning Authority can show that the new development is a betterment of the original design. The Parish Council do not believe that the new proposal is a betterment of the original design.

The proposal involves the demolition of a building which has been established through an earlier approval as capable of conversion to form two attached dwellings. The Parish Council feel that it has not been demonstrated through this application that the removal of the existing building and embedded energy which would go into the construction of two new detached dwellings would offer any environmental betterment than the original Class Q design which was awarded.

The proposed detached dwellings, having regard for their scale, design, materials and extensive use of glazing, would introduce an incongruous form of development in an exposed and isolated rural location, detrimental to the character and appearance of the area. The Parish Council argue that the new proposal is not a betterment of the original Class Q, and if planning permission were to be granted, it would set a precedent for development of large unaffordable dwellings in exclusive developments in the open countryside.

The developer has not engaged with the Parish Council for any of the planning applications nor have they sought the views of local residents. It appears to be an attempt to bulldoze through a large exclusive development on the edge of the village in open countryside which would not be complimentary to the village. The original Class Q, although not perfect, is much more aligned to the local landscape and is of the size and scale of the original barn.

The Parish Council also feel that the development is contrary to Policy D8 ' Re-use of Rural Buildings Outside of Settlements and is therefore a material consideration due to:

- ' The new use is not sympathetic to, and will not enhance the rural setting and character of the building because the original barn will be demolished
- ' The existing building (barn) is structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction and therefore demolition and replacement with two detached dwelling is not required

' The form, bulk and general design of the new proposed buildings are not in keeping with its surroundings, local building styles and materials

Further comments on amended plans:

Brampford Speke Parish Council objects to this application to replace a barn at Southmoor Farm with Class Q consent with 2 detached dwellings.

The original Class Q consent 20/0129/PDQ was awarded in March 2020 and gives permission for 2 attached dwellings to be constructed by way of a conversion of the original barn. This application is to demolish the barn completely and replace with an exclusive development of 2 detached large high value dwellings. The Parish Council has concerns that a completely different proposal has been submitted in less than 4 months after the original Class Q was awarded.

The Parish Council believes that the developer never had any intention of building out the original and has used Class Q to circumvent the planning process to build a small development in open countryside. The proposed floor plans of the new buildings are dated January 2020, before the Class Q was awarded under permitted development rights and show that the original plans were never intended to be built.

The developer did not attend the Parish Council site meeting for the original Class Q application and has not engaged with the Parish Council with regard to the new development.

The Parish Council understands that under Class Q, as long as it is 'reasonably necessary', a developer can undertake partial demolition. As the barn was constructed in 2013 and not in disrepair the Parish Council would argue that it is not necessary to demolish it and replace it with 2 detached dwellings and that the original Class Q permission would cause less harm.

The 2014 regulations state that developers cannot extend the building beyond its existing external dimensions and the garden area cannot be any bigger than the footprint of the building itself. The landscape planning submitted clearly show that the garden areas of the two new dwellings are of a much larger scale than the original footprint of the barn.

The Parish Council understands that the fall-back position if this proposed development is not approved is that the existing Class Q consent of two attached dwellings converted from the original barn would be built out. It is the Parish Council's view that the proposed development is not a betterment of the original Class Q in terms of design, footprint and affordability of the new units for local residents. The fall-back position is a material consideration and should carry greater weight than the new proposal, unless the Planning Authority can show that the new development is a betterment of the original design.

The Parish Council also feel that the development in contrary to Policy D8 ' Re-use of Rural Buildings Outside of Settlements due to:

' The new use is not sympathetic to, and will not enhance the rural setting and character of the building because the original barn will be demolished

' The building is structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction and therefore demolition and replacement with two detached dwelling is not required

' The form, bulk and general design of the new proposed buildings are not in keeping with its surroundings, local building styles and materials

Technical Consultations

None received

Other Representations

Four representations have been received raising the following objections (summarised)

- New housing within the open countryside contrary to local and national planning policy
- The application under which the barn was granted was subject to a removal condition and there is therefore no fall-back position
- Curtilage of the new dwellings is excessive
- Additional traffic using the lane
- Proposed dwellings are not well integrated into the rural and agricultural context
- No similar buildings in the locality
- Amended plans do not overcome previous concerns

PLANNING HISTORY

Reference	Description	Decision	Date
20/0129/PDQ	Prior approval for proposed change of use of agricultural building to 2 no larger dwellings (Use Class C3) and associated operational development under Class Q(a) and Q(b)	Prior Approval not required	09.03.2020
05/0373/AGR	Agricultural grain store	Approved	10.02.2005

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

H6 (Replacement of Existing Dwellings in the Countryside)

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 an agricultural building and part of an agricultural field within the countryside, located around 750m from the southern edge of the village of Bramford Speke.

The site is generally level and currently houses a large agricultural storage barn.

Access to the site is proposed using an existing farm entrance from the unnamed lane which provides access to the farm buildings, a further dwelling and the farm and farmhouse at Lower Woodrow, and a South West Water sewage works and pumping station.

Proposed Development

The existing building has received permission to be converted into two dwellings under application 20/0129/PDQ. This application seeks planning permission for the demolition of the existing barn on the site and the construction of two new dwellings to replace this.

It is proposed that 2 detached two storey properties (4 and 5-bed), occupying part of the footprint of the existing building are constructed, together with associated garden areas.

The existing building has a floor area of 449 square metres, with the new dwellings occupying a total footprint of around 235 square metres, although due to the proposed creation of two storey dwellings the total internal floor space proposed is 467 square metres.

The new properties are two storey buildings with rendered walls at ground floor with timber boarding to the first floor, under a pitched slate roof.

The layout proposed includes parking to the front of the dwellings with access taken from the existing farm entrance onto the lane. Private gardens are proposed to be enclosed by post and rail fencing from the remainder of the larger agricultural field. This results in much larger garden areas than approved via the previous application.

This application has been submitted on the basis of having a 'fall back' position under Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 1995.

ANALYSIS

The main considerations in the determination of this application relate to the principle of the proposed development, and any impact on the character of the surrounding area, on residential or other amenity, or on highway safety.

Principle

The principle of a residential use on this site has been established through the prior notification process, whereby the existing barn on this site can be converted under permitted development to one large 4-bed and one large 5-bed dwelling. This is the 'fall back' position (PDQ application).

The issue of whether there is a 'fall back' position in this instance has been questioned due to the nature of the consent under which the barn was originally constructed and restrictions or conditions relating to this.

It is understood that the barn was constructed under a Part 6 agricultural notification application (EDDC reference 05/0373/AGR). The submissions were approved by notice dated 16 March 2005. No conditions were included on the decision notice.

The Officer delegated report recommended that the application be approved subject to 2 conditions being attached. The first of these related to the building being removed when no longer required for agricultural purposes. However as the application was for an agricultural notification, as opposed to being a full planning application, it was not possible to add conditions to the notification decision and the conditions could not, and were not, added to the final decision.

Where prior approval is not required, as in this instance, the development must be undertaken in accordance with the details submitted with the application; and within 5 years of the submission of the application.

There is, however provision within Part 6 of the General Permitted Development Order that requires a building to be removed should it no longer be required for agricultural purposes in certain circumstances.

Condition A2 (5) states that

(5) Where development consists of works for the erection, significant extension or significant alteration of a building and—

(a) the use of the building or extension for the purposes of agriculture within the unit permanently ceases within 10 years from the date on which the development was substantially completed; and

(b) planning permission has not been granted on an application, or has not been deemed to be granted under Part 3 of the Act, for development for purposes

other than agriculture, within 3 years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased,

then, unless the local planning authority have otherwise agreed in writing, the building or, in the case of development consisting of an extension, the extension, must be removed from the land and the land must, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer.”

In this instance it is not considered that the above provisions would apply to the existing barn, as the use of the barn for agricultural purposes has been in place for more than 10 years.

With the above in mind the barn to which the PDQ application related, is considered to be lawful and met the requirements of the prior notification process.

The case of *Mansell v Tonbridge and Malling Borough Council*, heard at the Court of Appeal, concluded that the availability of permitted development rights can properly be taken into account as a fall-back position where some alternative form of development scheme is then proposed.

It appears that the reasoning is that, whilst prescriptive permitted development rights allow for piecemeal development that would accord with a strict interpretation of the regulations, often a revised scheme to replace the building(s) would provide for a better conceived design and layout (or at least no worse) which would provide an enhancement to the character of the area (or no more harmful impact), rather than working with a building that was not designed for residential purposes. As such, a fall-back development is a material consideration to such a proposal. In light of the fall-back position, the principle of development is acceptable in this instance.

In addition to the support from the above court case, Policy H6 of the Local Plan allows the replacement of existing dwellings in the countryside. This policy would support the principle of the approved dwellings (once constructed) being demolished and re-constructed on the site. As this policy would support the principle of the development once constructed, it is considered that this policy alongside the fall-back consent provide some further in-principle policy support for the proposal.

However, whilst the principle of development may be acceptable, the impacts of replacing the agricultural building with new buildings must be judged carefully and the following criteria to Policy H6 are a useful starting position for that assessment:

- The replacement dwelling is located on, or adjacent to, the footprint of the existing dwelling, or elsewhere within the curtilage of the building where a clear planning or environmental benefit will be achieved;
- The replacement does not detract from the appearance and character of the landscape;
- The dwelling to be replaced is not of architectural importance (whether Listed or not) or important in terms of contributing to landscape character or quality or local distinctiveness.

Visual Impact

The application proposes to demolish the existing building, which has been found to be structurally and physically capable of conversion to residential accommodation, and construct two new dwellings. The appearance of the proposed dwellings would be quite different from that previously permitted under the conversion of the barn, with different materials and designs appearing more like traditional houses. Having said this the design of the buildings are such that they have the proportions and scale of more traditional farm buildings, with less bulk and mass than the existing modern large span building currently on the site. This is demonstrated though the substantial reduction in the footprint of the proposed new buildings compared to the barn being replaced, although it is appreciated that the proposed dwellings have an upper floor.

The ridge height of the dwellings would be similar to the barn, with the orientation of the buildings such that from the lane they would be mostly viewed as a single entity. The total footprint of the proposed dwellings would result in an overall reduction in site coverage, and although the total floorspace of the buildings is slightly greater than the barn, it is considered that the proposed dwellings would present visually as less bulky than the existing barn.

The amended design is considered to have a more sympathetic appearance than the conversion of the existing barn, which by its nature of being a conversion of a building with an industrial appearance, would appear contrived and somewhat alien in this rural setting. The design and positioning of the proposed dwellings is not considered to have a detrimental impact on the appearance or character of the area given that they would remain essentially on the footprint of the existing building and are not considered to be prominent or visually intrusive in public views.

The materials to be used in the construction of the dwellings are considered to be reflective of more traditional farm buildings, with natural slate roofing, render and timber cladding. Whilst not the same as that proposed under the prior notification (profiled sheeting for the walls and roof) the proposed materials are considered to result in an aesthetic improvement. Submission of samples of the materials would need to be secured by condition.

The garden/domestic area would be enlarged from that allowed for under the PDQ legislation, which only permits a curtilage no larger than the size of the existing building. However the suggested garden curtilage is essentially that already associated with the existing farm enclosure with a modest extension into the field on the north western side of the site. The use of post and rail fencing would offer a permeable boundary to the north of the site, with the western boundary contained by existing hedging which it is proposed to retain. Given the relatively open nature of the site to the north and east, it is considered to be reasonable to restrict permitted development rights relating to curtilage structures to ensure that there is not a proliferation of unreasonably domestic paraphernalia generated on the site.

In light of the above, and whilst the concerns expressed by the Parish Council and third parties are understood, it is considered on balance that the proposal will result in

the following improvements to the visual amenity of the area over the approved conversion such that a grant of planning permission is recommended:

- Reduced footprint of development;
- Less bulky visual impact;
- Removal of a contrived design and its subsequent visual impact;
- Introduction of a design that is more akin to the conversion of agricultural barns
- Use of materials more sympathetic to the appearance of the area;

In light of the reduced footprint of development, location of the dwellings in a similar position to the barn, and the marginally improved visual appearance compared with the approved conversion, it is considered that the proposal also complies with the criteria to Policy H6.

Highway safety

Parking is proposed to the front of the buildings, with a shared access point and 'grasscrete' resin surfacing which is considered to be appropriate in this situation.

As the proposal will not generate any greater levels of traffic than the fall-back permission, there are no highway safety concerns with the current proposal.

Residential Amenity

The application site is located away from other residential properties and given that there is already the fall back of 2 dwellings on the site through the conversion of the existing barn, it is not considered that there will be any further impact on amenity in terms of noise or disturbance such that any detriment will arise from the use.

Habitat Regulations Appropriate Assessment

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

Other matters

The Parish Council have raised an issue regarding the proposal resulting in the provision of two large dwellings that will be unaffordable to the majority of local residents. Whilst this may be the case, this is not something that could be used to justify refusal, particularly as the fall-back position has consented two large 4 and 5 bed dwellings of a similar square meterage.

The Parish Councils comments regarding a conversion being more energy efficient and sustainable than a new build is also understood, but equally there can be energy efficiency and other environmental gains through the provision of a new build development to the latest building standards. It is not considered however that this weighs heavily in the balance given the lack of comparable information.

With regard to the process and concerns that the applicant has always intended to seek the fall-back position before applying for these two dwellings, this is irrelevant to the planning consideration and even if this is the case, the applicant is within their rights to do so.

In addition, whilst the local planning authority encourage applicants to consult with neighbours and Town/Parish Councils before submitting planning applications, applicants are not required to do so for proposals of this scale.

Finally, with regard to the enlarged gardens, it is the case that the garden areas approved as part of the original application as restricted under the relevant legislation to be no larger than the footprint of the development. However, it is not unusual, or unreasonable, for people to apply for larger gardens and as long as the visual impact from this is acceptable, such applications should usually be approved.

RECOMMENDATION

1. That the Habitat Regulations Appropriate Assessment outlined within the Committee Report be adopted.

2. That the application be APPROVED subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works within the Schedule 2 Part 1 Classes A, B, C, D, E, F, G or H for the enlargement, improvement or other alterations and structures within the curtilage to the dwellings hereby permitted,

other than works that do not materially affect the external appearance of the buildings, shall be undertaken.

(Reason - The proposal is justified as a fall back from Part 3 Class Q of the Town and County Planning (General Permitted Development) Order which does not permit any changes without the need for planning permission as it may cause detriment to the character and appearance of the area in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)

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

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

5. No development above foundation level shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted East Devon Local Plan 2013-2031.)

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:

DC/GF1RP1/C Proposed Floor Plans 09.10.20
Rev 1

DC/FF1RP1/D Rev 1	Proposed Floor Plans	09.10.20
D1/PEL1/E Rev 1	Proposed Elevation	09.10.20
DC/PFP21/F Rev 1	Proposed Floor Plans	09.10.20
DC/FFP221/G Rev 1	Proposed Floor Plans	09.10.20
DC/PEL11/H Rev 1	Proposed Elevation	09.10.20
DC/PEL111/1 Rev 1	Proposed Elevation	09.10.20
DCLFB/SLP1/A Rev 1	Combined Plans	09.10.20
DCLSFB/SLP1/B Rev 1	Landscaping	09.10.20

List of Background Papers

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