

**Ward** Budleigh And Raleigh

**Reference** 20/2514/FUL

**Applicant** Mr & Mrs Robert & Meg Harris

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

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



### RECOMMENDATION: Refusal



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

**RECOMMENDATION: Refusal**

### **EXECUTIVE SUMMARY**

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

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

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

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

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

## **CONSULTATIONS**

### **Local Consultations**

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

**This Council supports the application**

Cllr Tom Wright

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

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

Cllr Alan Dent

Thank you for letting me have sight of this report.

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

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

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

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

**Technical Consultations**

Conservation

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

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

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

CONSERVATION AREA: Budleigh Salterton

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

**BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:**

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

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

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

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

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

#### PROVISIONAL RECOMMENDATION - PROPOSAL ACCEPTABLE

##### Environment Agency

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

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

##### Other Representations

None

#### **POLICIES**

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

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

EN21 (River and Coastal Flooding)

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

EN10 (Conservation Areas)

TC9 (Parking Provision in New Development)

Budleigh Salterton Neighbourhood Plan (Made)

NPPF (National Planning Policy Framework 2019)

### **Site Location and Description**

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

### **Proposed Development**

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

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

### **ANALYSIS**

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

#### **Principle**

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

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

As such the principle of development is acceptable.

#### **Flood Risk**

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

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

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

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

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

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

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

### **Sequential Test**

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

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

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

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

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

### **Design and impact upon the Conservation Area and AONB**

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

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

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

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

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

### **Appropriate Assessment**

The nature of this application and its location close to the Exe Estuary and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured. On this basis, and as the joint authorities are work in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

### **CONCLUSION**

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

### **RECOMMENDATION**

REFUSE for the following reasons:

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



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

#### NOTE FOR APPLICANT

##### Informative:

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

##### Plans relating to this application:

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

##### List of Background Papers

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