

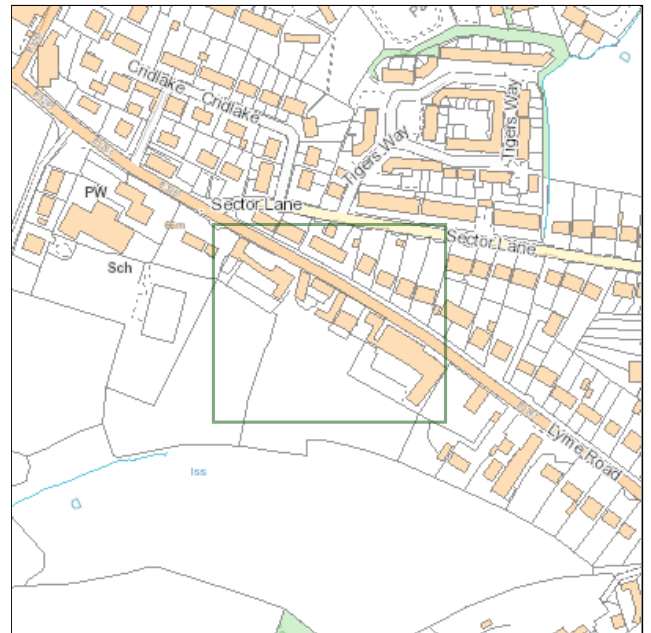
Ward Axminster

Reference 20/1895/FUL

Applicant Mr Peter Crosby

Location Green Acres Lyme Road Axminster EX13 5BH

Proposal Construction of garage and barn (partially retrospective)



RECOMMENDATION: Approval with conditions



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

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

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

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

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

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

CONSULTATIONS

Local Consultations

Axminster - Cllr Ian Hall

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

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

Axminster - Cllr Sarah Jackson

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

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

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

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

Axminster – Cllr Andrew Moulding

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

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

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

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

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

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

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

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

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

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

Parish/Town Council

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

Technical Consultations

Devon County Highway Authority

Observations:

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

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

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

Recommendation:

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

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

Other Representations

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

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

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

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

Two buildings are proposed not one

Unacceptable noise to neighbouring properties

Overlooking of neighbouring properties

Loss of privacy of neighbouring properties

Loss of views from neighbouring properties

Impacts from business to be run from building

Use of access introduces highway safety concern

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

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

EN22 (Surface Run-Off Implications of New Development)

D7 (Agricultural Buildings and Development)

TC7 (Adequacy of Road Network and Site Access)

Site Location and Description

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

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

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

Relevant Planning History

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

Proposed Development

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

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

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

ANALYSIS

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

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

Principle and justification for the proposed building and its proposed use

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

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

The proposal is therefore acceptable in principle.

Materials and appearance

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

Neighbouring amenity

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

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

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

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

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

Highways and access considerations

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

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

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

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

Consideration of wider context and landscape

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

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

Proposal for surface water drainage

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

Other uses of the building:

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

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

Other material planning considerations arising

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

Other matters

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

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

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

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

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

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

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

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

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

CONCLUSION

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

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

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

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
3. Provision shall be made for collection of surface water from the building with drainage to a soakaway on site so that none enters the public highway.
(Reason - in the interests of highway safety in accordance with Policy TC9 (Adequacy of Road Network and Site Access) and Policy EN22 (Surface run off implications of new development) of the East Devon Local Plan 2-13-2031).
4. The building hereby permitted shall be used only in conjunction with, and ancillary to, the use of Green Acres as a single dwelling house and the building shall not be used as a separate dwelling or for any commercial, industrial or business purpose.
(Reason - The building is unsuitable for independent residential occupation due to its relationship with adjacent dwellings and a commercial use has not been applied for or considered and could cause undue noise to adjoining occupiers in accordance with the requirements of Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.)
5. Prior to the first use of the building hereby approved, a landscaping scheme to screen the building from view from the south shall have been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be carried out in the first planting season after approval of the details unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.
(Reason - To ensure that the details are planned and considered at an early stage in the interests of amenity and to preserve and enhance the character and appearance of the area in accordance with Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the Adopted New East Devon Local Plan 2016.)

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

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

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

Informative:

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

Plans relating to this application:

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

List of Background Papers

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