

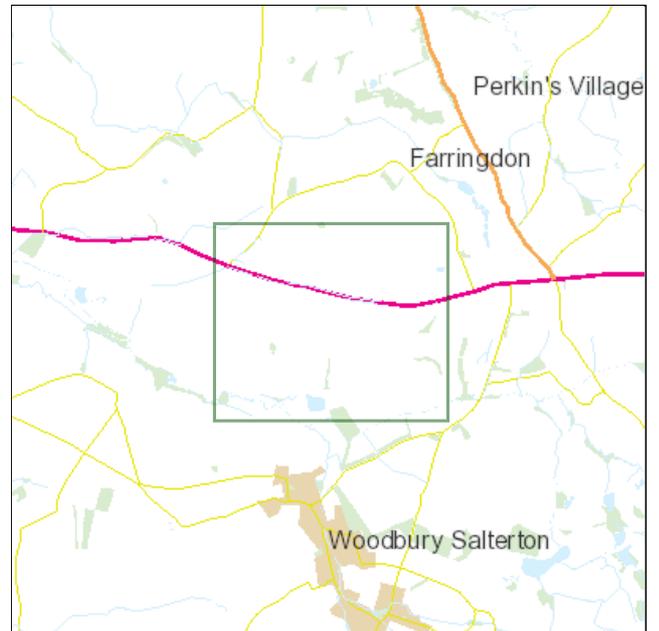
Ward Woodbury And Lymstone

Reference 21/0482/FUL

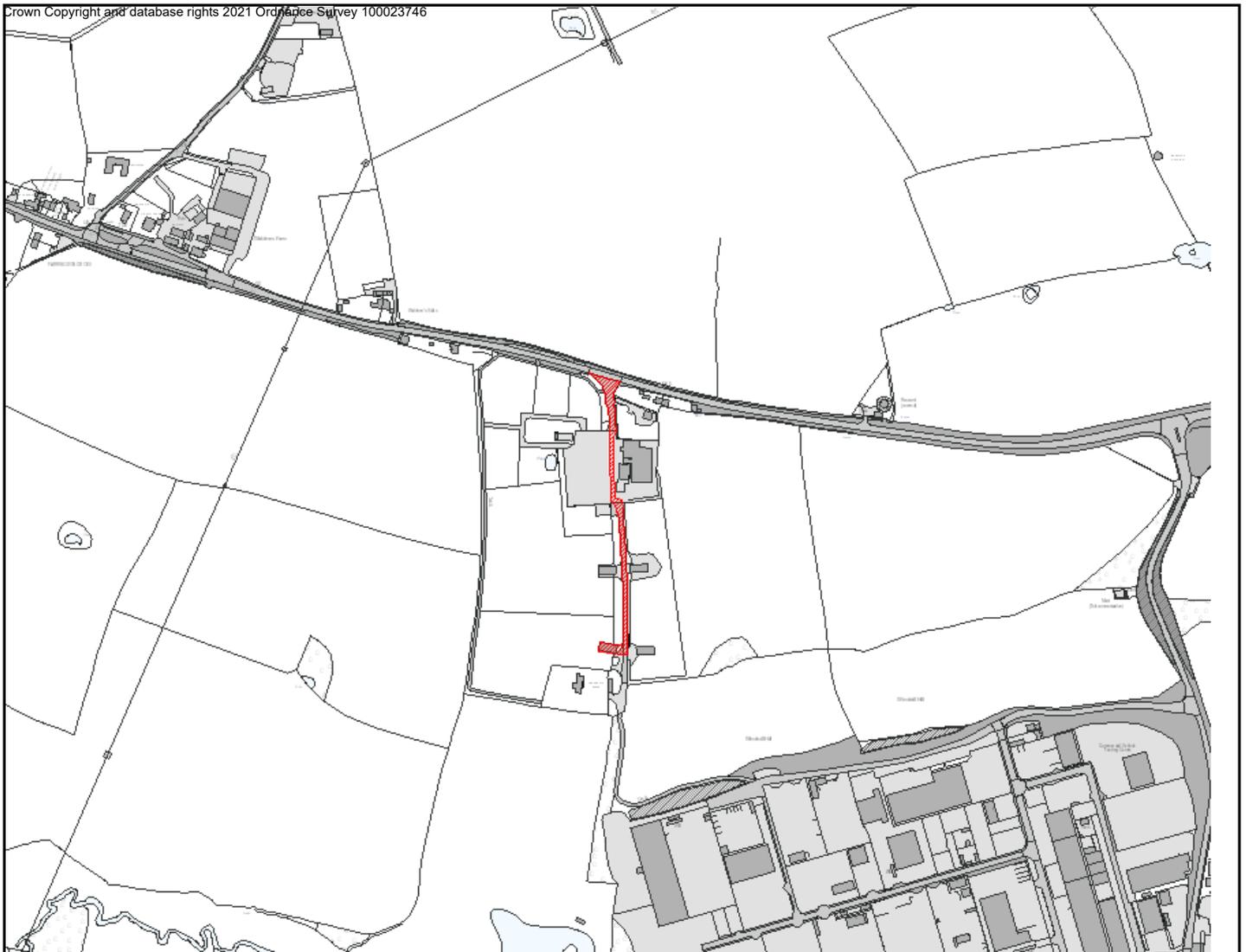
Applicant Mr M Carter

Location Greendale Farm Shop Sidmouth Road
Farringdon Exeter EX5 2JU

Proposal Construction of building for use as registered
nursery, and associated ancillary works



RECOMMENDATION: Approval with conditions



		Committee Date: 1st September 2021
Woodbury And Lympstone (Woodbury)	21/0482/FUL	Target Date: 03.05.2021
Applicant:	Mr M Carter	
Location:	Greendale Farm Shop Sidmouth Road	
Proposal:	Construction of building for use as registered nursery, and associated ancillary works	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

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

The application relates to a building located to the south of Greendale Farm Shop, which is situated in the open countryside and accessed off the A3052. The current building to be replaced is an agricultural structure which was used for poultry. The most recent use for the building was agricultural.

This application seeks permission for the erection of a new replacement building in lieu of the change of use of the existing building to a nursery granted under the prior approval process (reference 20/1918/PDS). The new building would occupy the same site, and have the same dimensions as the existing building. External walkways and three parking spaces would also be provided. The building, and the associated infrastructure, would be used as a registered nursery. Previously, the applicants had submitted an application to make alterations to the existing building, in order to achieve a similar outcome, but that application (20/0592/FUL) was withdrawn as it proposed an increase in the size of the building and the applicant advised that the construction of a new building would be a simpler option.

The use of the building as a day nursery has been established by the granting of the permitted development application 20/1918/PDS. In this instance though, as a new building is now proposed, planning permission is required.

Ordinarily, in such locations, the erection of building for the proposed purpose may be considered unacceptable on the basis of its location in the countryside

reliant on the use of the car. However, the presence of a fall-back position is a material consideration in the determination of planning applications. Therefore, the applicant benefits from a fall-back position in terms of being able to convert the existing building to a nursery and as such it would be difficult to now resist the proposal on the basis of the location of the nursery.

The proposed building would occupy the same footprint, and its dimensions would match those of the existing structure. Consequently, it is considered that the building would not become more prominent in the landscape. The proposals would result in an increase in the number/nature of openings on the building (compared to the current structure), but it is considered that these would not result in a detrimental visual impact on the countryside; they are minor and the building would appear subservient to the surrounding development. It is also relevant that under the prior approval process previously granted, some external alteration are allowed.

The external works to provide a walk way and parking area would introduce a slightly more suburban appearance to the building. However, given the context of the surrounding and near-by development, it is considered that the scale of these additions would be such that they would not have a detrimental impact upon the countryside.

The site would utilise the established entrance off the A3052 which provides access to the near-by farm shop. There is a considerable area of car parking available. The County Highway Authority has not objected to the proposal.

The proposed works are considered to be of a nature which would not give rise to any loss of amenity to the occupiers of any other dwelling, especially given as there are no domestic properties in the immediate vicinity of the site. Consequently, as the use of the building as a day nursery has been deemed to be permitted development with a fall-back position in place, it is considered that the proposal would not be detrimental to neighbour amenity.

The proposal would provide a suitable structure for a nursery use, and the PDS approval serves as a fall-back position with regard to the use of the building/site as a registered nursery. Given this, and as the proposed building is considered acceptable in all other regards, it is recommended that this application is approved.

CONSULTATIONS

Parish/Town Council

NOT SUPPORTED. But would look favourably on the first building in the line, rather than the last, being developed.

Woodbury And Lympstone - Cllr Geoff Jung
21/0482/FUL

I have viewed the Planning Application 21/0482/FUL for the construction of building for use as registered nursery, and associated ancillary works at Greendale Farm Shop Sidmouth Road Farringdon

A 'prior approval' development was agreed at this location 20/1918/PDS for the proposed change of use of agricultural building and land within its curtilage to a registered nursery last year.

The principle of permitting a change of use from agriculture to another use was agreed in the 2013 the Government's Budget Statement for allowing further flexibilities between use classes to support the change of use of building. Therefore, the Town and County Planning (General Permitted Development) Order 1995 (as amended) to grant permitted development rights for various situations including rights to assist the change of use of existing agricultural buildings for other purposes. These rights are there to assist farmers to diversify into other investment streams and to assist in the easy transfer of use of a building that is not required for agricultural to be used for another purpose.

Therefore, the local authority was required to allow the change of use to a day nursery even though a building of this use would not be permitted in the open countryside. This application is for a new building similar in size to be built at this location.

This application for a new building is within the open countryside and although there is an already permitted change of use permission at this location, I see no reason why the previous building is required to be demolished and a new building replace it.

Therefore, I cannot support this application, however I reserve my final views on this application until I am in full possession of all the relevant arguments for and against. I have considered the amendments and I am still unable to support this application.

Further comments:

I have considered the amendments and I am still unable to support this application.

Devon County Highway Authority

This site is subject to a back-fall position of an approved permitted development rights application made last year, the County Highway Authority (CHA) tends not to comment upon these types of applications due the restricted reasons for objecting.

Nevertheless, this full application does put forward an existing access with an acceptable visibility splay and a site with a former use, setting a precedent for acceptance to a trip generation of a similar value, which I believe this current application is.

I do appreciate that the A3052 has got busier in recent years but I do not think this application is large enough to provide any significant mitigation to this in general, especially with the fall-back position it holds.

The proposed layout will allow sufficient room for off-carriageway parking and turning for vehicles to re-enter the carriageway in a forward facing motion. Therefore in summary, the CHA has no objection to this planning permission.

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

Environmental Health

I have considered the application 21/0482/FUL and do not anticipate any environmental health concerns

DCC Early Years And Child Care

In support of planning application: Section 6 of the Childcare Act 2006 requires local authorities to ensure there is sufficient childcare to meet the needs of parents and carers with children aged up to 14 years (or up to 18 years for disabled children and children with additional needs) to enable them to take up or remain in work, or undertake training that could assist them to obtain work.

As part of our sufficiency duty assessment it is anticipated there is likely to be demand for this small nursery setting as there is a potential shortfall in group based providers for children under 5. Anecdotally we know that many families access childcare close to where they work so provision on commuter routes are known to be popular.

<https://new.devon.gov.uk/eycs/for-providers/childcare-sufficiency>

Nanny Bears Nursery has been an Ofsted Registered Childcare provider within Devon for several years with 3 nurseries currently operating and has a good reputation with parents and professional. I feel assured the proposed Nursery will provide a quality service to children and enable families to undertake training or employment. While also creating jobs and training opportunities as an employer.

Other Representations

Two letters of objection have been received. In each of these, the main concern raised relates to the principle of converting the building to use as a day nursery, and the suitability of the site.

PLANNING HISTORY

Reference	Description	Decision	Date
20/1918/PDS	Prior approval for proposed change of use of agricultural building and land within its curtilage to a registered nursery	Prior approval granted	03.12.2020

20/0592/FUL	External alterations to agricultural building to facilitate use as a registered nursery; external parking area	Withdrawn	29.01.2021
20/0612/PDS	Prior approval for proposed change of use of agricultural building and land within its curtilage to a registered nursery	Prior approval Refused	27.05.2020
18/2388/PDR	Prior notification under Part 3, Class R for the flexible change of use from agricultural use to 3 no. units of shops (A1)	Prior approval not required	11.12.2018

POLICIES

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

D1 (Design and Local Distinctiveness)

E5 (Small Scale Economic Development in Rural Areas)

TC7 (Adequacy of Road Network and Site Access)

Government Planning Documents
NPPF (National Planning Policy Framework 2021)

Site Location and Description

This application relates to a building located to the south of Greendale Farm Shop, which is situated in the open countryside and accessed off the A3052. The building is an agricultural structure which had been used as a poultry unit. The submitted supporting statement states that the building has been used for free range egg production since they were put on the land in 2003. It also states that, since 2007, the site has been owned and operated by FWS Carter & Sons Ltd who operate a 500 hectare mixed farm holding. The building extends to a footprint of approximately 150m² with an attached egg collection area of 6.5m². The most recent use for the building was agricultural.

Proposed Development

This application seeks permission for the erection of a new replacement building in lieu of the change of use of the existing building to a nursery granted under the prior approval process (reference 20/1918/PDS). The new building would occupy the same site, and have the same dimensions as the existing building. External walkways and

three parking spaces would also be provided. The building, and the associated infrastructure, would be used as a registered nursery. Previously, the applicants had submitted an application to make alterations to the existing building, in order to achieve a similar outcome, but that application (20/0592/FUL) was withdrawn as it proposed an increase in the size of the building and the applicant advised that the construction of a new building would be a simpler option.

ANALYSIS

The main issues for consideration are the principle of development, visual impact, highway safety and amenity of nearby residents.

Principle

The use of the building as a day nursery has been established by the granting of the permitted development application 20/1918/PDS. That decision confirmed that the proposed conversion of the building for that use met the necessary criteria set by the Government. In this instance though, as a new building is now proposed, planning permission is required.

Ordinarily, in such locations, the principle of the erection a building for the proposed purpose may be considered unacceptable due to the location of the site in the countryside reliant upon the use of the car. However, the case of *Mansell v Tonbridge and Malling Borough Council*, heard at the Court of Appeal, it was 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, is a material consideration. 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, using more sustainable materials and foundations, which would provide an enhancement to the character of the area, rather than working with a building that was not designed the new purpose.

Notwithstanding that judgement being specifically related to a residential development, it is considered that the principle of the judgement is relevant in this instance, and that the presence of the fall-back development is a material consideration in the determination of this application.

Given the above, the principle of the proposed building, and its intended use, is considered to be acceptable on the basis that the granting of the aforementioned Prior Approval application that acts as a fall-back position. The fact that the existing building can be used as a registered nursery needs to be given significant weight and is adequately justification for allowing a replacement building on the site providing a nursery of the same size and scale.

The visual impact of the proposal on the countryside.

The proposed building would occupy the same footprint as the current structure, and would have exactly the same dimensions as the existing building. Consequently, it is

considered that the building would not become more prominent in the landscape. The proposals would result in an increase in the number/nature of openings on the building (compared to the current structure), but it is considered that these would not result in a detrimental visual impact on the countryside; they are minor and the building would appear subservient to the surrounding development. It is also relevant to note that under the Prior Approval process, some external alterations to facilities the change of use are permitted.

The external works to provide a walk way and parking area would introduce a slightly more suburban appearance to the building. However, given the context of the surrounding and near-by development, it is considered that the scale of these additions would be such that they would not have a detrimental impact upon the countryside.

Highway safety.

The site would utilise the established entrance off the A3052 which provides access to the near-by farm shop. There is a considerable area of car parking available. The County Highway Authority has not objected to the proposal, but has recommended the inclusion of cycle storage. Given this, it is considered that there would not be any detrimental impacts upon transport or highways subject to secure cycle storage being secured by condition,

Neighbour amenity.

The proposed works are considered to be of a nature which would not give rise to any loss of amenity to the occupiers of any other dwelling, especially given as there are no domestic properties in the immediate vicinity of the site. Consequently, as the use of the building as a day nursery has been deemed to be permitted development, it is considered that the proposal would not be detrimental to neighbour amenity.

Other matters

Two letters of objection have been received. In each of these, the main concern raised relates to the principle of converting the building to use as a day nursery, and the suitability of the site. Whilst those concerns are noted, it is the case that the nature of the building is such that the governments permitted development legislation allows it to be converted for use as a day nursery. Whilst accepting that this application relates to the construction of a new building to replace the existing structure, given the aforementioned fall-back position and the other factors discussed above, it is considered that it would be unreasonable for the Council to object to the proposal on the grounds suggested in the objection letters.

It is noted that the Devon County Council Early Years and Child Care Department has confirmed to the Local Planning Authority that there is a shortage of the facility that the proposed building would serve. Whilst this does not specifically relate to a planning policy, and would not result in the application being acceptable if it were the only factor in support of the proposal, it is considered to be a point of note given the considerations discussed above.

The proposal would not impact upon any trees, listed building, conservation area or landscape designation.

CONCLUSION.

This application relates to the erection of a new building for use as a registered nursery, and has been submitted following approval of a Prior Approval application for the change of use of the building to a nursery. This consent represents a fall-back position which weighs heavily in the planning balance and justifies the provision of a nursery on the site as part of the current application.

The new building would provide a more suitable structure than the existing building, is of the same size, would not have any advertise visual impact, is acceptable in highway terms and would not have a harmful impact upon amenity. As such the application is recommended for approval.

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. 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.)
4. The building hereby permitted shall be used only as a registered nursery, and not for any other purpose.
(Reason - To define the scope of the permission, as only the registered nursery use has been considered, and to comply with the provisions of the provisions of Policies D1 (Design and Local Distinctiveness) and D7 (Agricultural Buildings and Development) of the East Devon Local Plan 2013 - 2031).
5. Before the building hereby permitted is brought into use, the car parking shown on drawing number 8054-01 Rev B shall be installed and available for use.

(Reason - To ensure that adequate car parking is available for the permitted building and use, and to comply with the provisions of Policies D1 (Design and Local Distinctiveness) and TC9 (Parking Provision in New Development) of the East Devon Local Plan 2013 - 2031).

6. Before the building hereby permitted is brought into use, secure cycle parking shall have been provided in full accordance with details submitted to and approved in writing by the Local Planning Authority. Thereafter the cycle parking shall be provided and retained in perpetuity.

(Reason - To ensure that adequate cycle parking is available for the permitted building and use, and to comply with the provisions of Policies D1 (Design and Local Distinctiveness) and TC9 (Parking Provision in New Development) of the 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.

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:

8054-01 E	Proposed Combined Plans	28.07.21
8054-08 A	Sections	28.07.21
200_01 B	Location Plan	08.03.21

List of Background Papers

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