

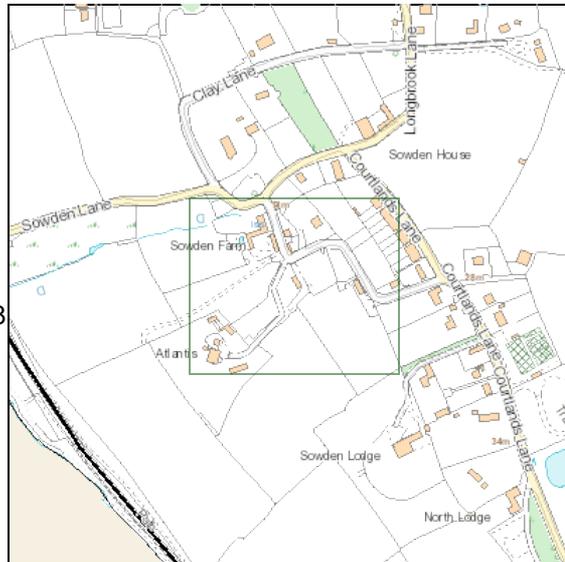
Ward Woodbury And Lymstone

Reference 21/1560/FUL

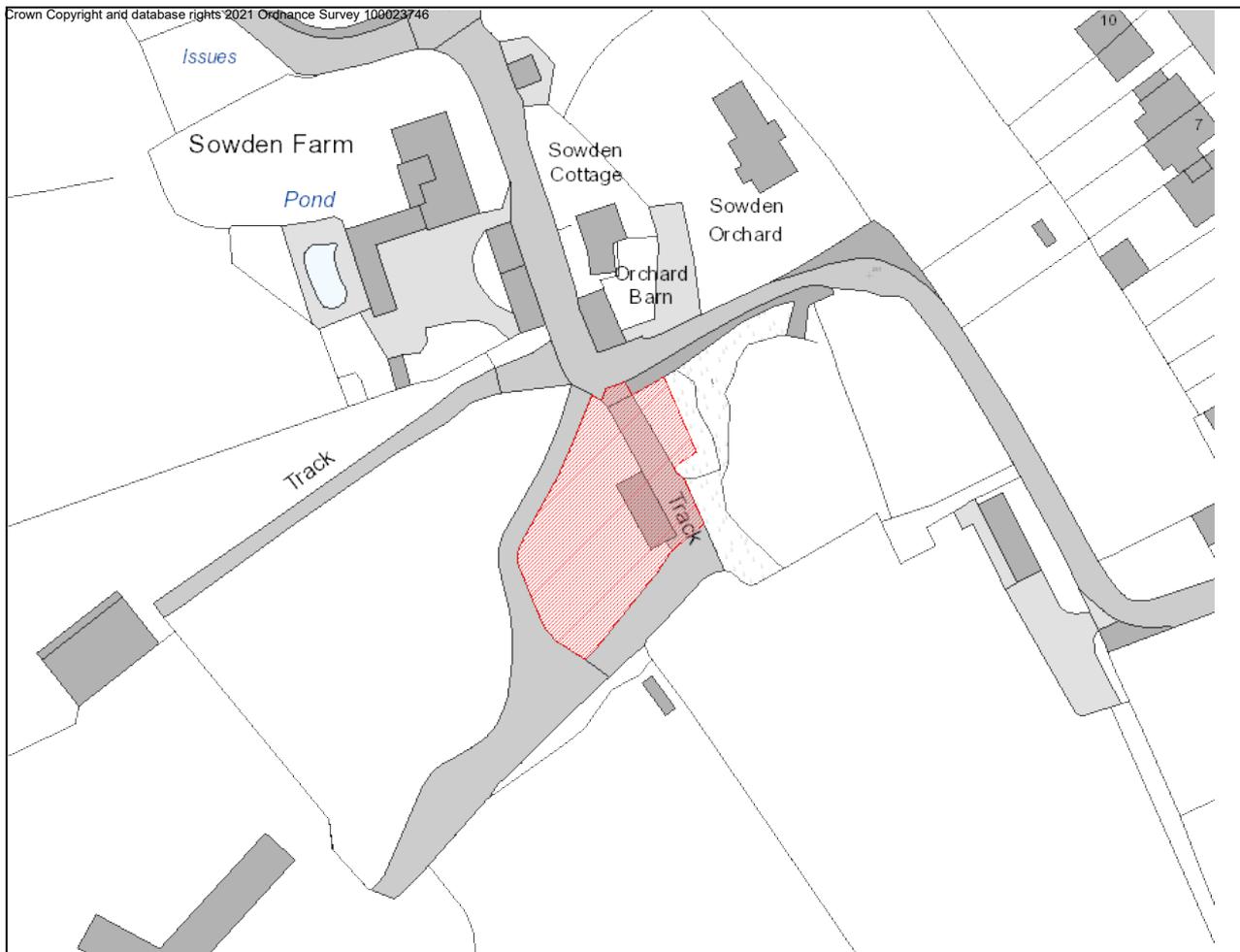
Applicant Mr and Mrs Richard House

Location Atlantis Sowden Lane Exmouth EX8 5AD

Proposal Rebuild of barn to approved conversion under application 18/0478/FUL (part retrospective)



**RECOMMENDATION: 1. Adopt the appropriate assessment
2. Approval with conditions**



		Committee Date: 24.11.2021
Woodbury And Lympstone (Lympstone)	21/1560/FUL	Target Date: 09.08.2021
Applicant:	Mr and Mrs Richard House	
Location:	Atlantis Sowden Lane	
Proposal:	Rebuild of barn to approved conversion under application 18/0478/FUL (part retrospective)	

RECOMMENDATION: 1. Adopt the appropriate assessment
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EXECUTIVE SUMMARY

This application is before members as the proposal represents a departure from the adopted development plan and neighbourhood plan.

The site lies in the open countryside, this part of which is designated as a green wedge and coastal preservation area, to the east of the village of Lympstone. There are a handful of dwellings surrounding the site.

There has been a building on this site for decades, being formerly used for agricultural storage purposes, and planning permission has been granted for use of the building as a dwelling house, initially as a prior notification permitted development conversion and latterly to add a second floor and larger curtilage using the fall-back position case law. However, during the winter of 2019/2020 before conversion works took place some of the building collapsed and during the start of conversion works it was apparent that more of the original building needed to be re-built than the former structural survey suggested. As a result only the rear gable end remained in situ.

As the original building is no longer present, any fall-back position has also fallen away and the re-building of the barn is therefore tantamount to a new dwelling in the countryside for which there is no support in the EDDC Local Plan or Lympstone Neighbourhood Plan and therefore the proposal represents a departure from policy.

However, the form, footprint and appearance of the dwelling proposed in this application closely replicates the original barn, albeit with a small number of new openings such that its impact on surroundings would not be unduly harmful. Given the history of the site for residential uses and the fact that the building

would not look materially different than it would have done had it been converted under the previous consents rather than being re-built, it is considered, on balance, that there is no harm from the proposal and it is considered to be acceptable in principle and in terms of its visual impact.

Highway safety impacts and impact on ecology have been considered in the report and have also been found to be acceptable.

CONSULTATIONS

Local Consultations

Parish/Town Council

Recommendation: Support

LPC proposed to support as previously approved.

Woodbury And Lympstone - Cllr Geoff Jung

21/1560/FUL

I have viewed the documents for 21/1560/FUL to rebuild a barn to approved conversion under application 18/0478/FUL at Atlantis Sowden Lane

There have been several planning applications for this location. In 2017 a 'permitted development' proposal was submitted 17/1796/PDQ proposing a change of use of agricultural building to form 1 dwelling (use class C3) and associated operational development under class Q (a) and (b). at Atlantis Sowden Lane. These 'change of use' applications were introduced by government to help turn redundant buildings into habitable dwellings to help the national housing shortage. A stipulation was that the building was structurally capable of conversion. The Applicants survey stated that this was the case. Therefore, although the development was outside the built-up area boundary where development would not be supported the application was given approval because it complied with the PDQ regulations.

In 2018 a planning application was submitted 18/0478/FUL for the proposal of converting an existing barn to provide one dwelling with associated amenity space and parking at the Barn at Atlantis Sowden Lane. The previous PDQ application had not been carried out, but permission was granted due to the previous permitted development, as there was an existing presumption for a dwelling to be built. However, this application was to convert an existing building that was capable of being converted to a dwelling.

On both previous applications it was stated that the fabric of the existing barn can take the conversion and on that understanding the 2 previous "change of use" applications were supported.

However, this application states that the existing building is now not able to be converted and it is proposing to demolish it and replace it with a similar style of house as previously proposed with the barn conversions.

But a proposal for a new dwelling 'in the open countryside' would not be supported by the East Devon Local Plan and therefore because it is not making use of a previous structure and it is basically a new build in the open countryside, I am unable to support this application.

I reserve my final views on this application until I am in full possession of all the relevant arguments for and against.

Further comments:

Since my last comments, I have visited the site by invitation from the owners and discussed the work with their contractor. They have retained a lot of the original brick walls, and replaced the cobb that was failing with new cobb, and the character of the barn has thankfully been retained.

I therefore withdraw my objection and I am more than happy with your recommendation.

Woodbury And Lympstone - Cllr Ben Ingham

I recommend this planning application for approval as it is compliant with EDDC planning policies. I have known the barn for decades. The intended dwelling retains the same shape and position as the old barn. To refuse this application would be foolhardy (tempting an appeal) and not in the spirit of a fair planning process.

Other Representations

No third party representations have been received

PLANNING HISTORY

Reference	Description	Decision	Date
17/1796/PDQ	Prior approval for proposed change of use of agricultural building to form 1 dwelling (use class C3) and associated operational development under class Q (a) and (b).	PDQA Prior Approval granted	19.09.2017
18/0478/FUL	Conversion of existing barn to provide one dwelling with associated amenity space and parking	Approval with conditions	08.05.2018
18/1423/FUL	Conversion of existing barn to provide one dwelling with associated amenity space and parking (revised scheme to provide accommodation in the roof)	Approval with conditions	17.08.2018

POLICIES

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

D1 (Design and Local Distinctiveness)

Strategy 8 (Development in Green Wedges)

EN14 (Control of Pollution)

D2 (Landscape Requirements)

TC7 (Adequacy of Road Network and Site Access)

EN5 (Wildlife Habitats and Features)

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

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Neighbourhood Plans

Lympstone Neighbourhood Plan (Made)

Policy 3 – Development in the green wedge

Site Location and Description

The site lies to the east of the settlement of Lympstone situated in the green wedge between Exmouth and Lympstone and also in the coastal preservation area. At the time of making the application the site comprised of an historic redundant agricultural storage building which had partly collapsed/was being taken down with only one main wall and some areas of other walling remaining and being supported by scaffolding. There is a direct access onto the public highway with a replacement dwelling recently having been completed to the south and a handful of dwellings to the west of the site.

Proposed Development

This application seeks full planning permission for the re-building of the former agricultural barn as a dwelling to closely mirror the design, form and materials of the dwelling that was approved under application 18/1423/FUL. Some minor fenestration changes are proposed together with the additional of a timber porch canopy over a door.

Assessment

The main considerations in the determination of this application are:

- The principle of the proposed development;
- The impact of the proposal on its surroundings including green wedge and coastal preservation area;
- The impact on highway safety;
- The impact on ecology;
- An appropriate assessment; and
- Planning balance.

Principle

The site lies in the open countryside outside of the built up area boundary of Lympstone as indicated in the Villages Plan SPD and the boundary as indicated on Page 11 of the Lympstone Neighbourhood Plan, as a consequence the proposal fall to be considered under Strategy 7 of the East Devon Local Plan and Policies 2 and 3 of the Neighbourhood Plan. Strategy 7 of the EDDC Local Plan seeks to protect the character and appearance of the countryside, however that does not represent a bar on development, as proposal that accord with other polices of the plan are acceptable. The policies of the Neighbourhood Plan also allow for some development where justified.

The application being considered in this report follows a 2017 grant of prior approval for the change of use of the building to a dwelling (17/1796/PDQ) which established the principle of creating a dwelling from this redundant agricultural building. A further two planning permissions were granted (using the fall back PDQ permission to enable the principle of the conversion of the building in the open countryside) to enable a larger curtilage than the Part Q legislation allows for and to insert a second floor in to the building which the Part Q legislation at the time did not allow for either. During all of these approvals heavy reliance was had on the structural report which accompanied the applications which indicated that the building was suitable for conversion.

However, during the conversion of the building it was found that the existing cob walls were no longer fit for purpose and meant that the building could no longer be converted in accordance with the permission granted, the conclusion of the report stating the following:

'The cob walls are beyond repair and should be replaced with new cob block walls as part of the new proposals to respect the heritage of the building'.

Accordingly, the proposal now seeks the re-building of the barn to provide a dwelling house which is tantamount to the construction of a dwelling house. The EDDC Local Plan and Lympstone Neighbourhood Plan both contain policies that, subject to sustainability criteria and green wedge considerations, allow for the conversion of buildings into dwelling houses, however, outside of the settlement they do not support the development of isolated new homes. Therefore, the proposal represents a departure from the development plan. The proposal has been advertised by way of a site notice and press advert to

As such the principle of constructing a dwelling in the open countryside is not supported and weighs against the proposal. However, there are a number of material considerations which need to be evaluated and weighed in the balance at end of this report.

What case law allows

Attention has been drawn to the case of *Mansell v Tonbridge and Malling Borough Council*, heard at the Court of Appeal, which 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 right 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 that would provide an enhancement to the character of the area 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, but the impacts of replacing the agricultural building with a new building must be judged carefully.

Originally, the existing building on site was found to be structurally sound and a permission was granted to accord with the Part 3 permitted development rights under class Q meaning that the principle of a residential use of the site had been established. Had a subsequent application for demolition of the existing building and erection of a building of a similar size been applied for on the same footprint but of a different, albeit, traditional appearance, then as a Local Planning Authority we would not have been able to refuse planning permission in principle given the establishment of the fall-back position given the *Mansell* case law.

Whilst the current proposal has not followed the conventional route to establishing a fall-back position, it is for the decision maker to distinguish whether what has been applied for now, its impact on surroundings (see subsequent section) and the resultant harm that the proposal would have over and above what was permitted under application 18/1423/FUL and whether approving this permission would depart from the established case law. All of these strands will be brought together in the planning balance at the end of this report.

Impact of the proposal on its surroundings including green wedge and coastal preservation area

There has been a barn on site for many decades performing agricultural storage functions, due to the surrounding ground levels it was a 2 storey barn that served the land to the south from the first floor level and also for storage purposes on the ground floor from the road side entrance. The form of the building proposed in this application closely replicates the barn, albeit with a small number of new openings such that its impact on surroundings would not be unduly harmful.

The site does lie in the green wedge which seeks to prevent the coalescence of Exmouth with Lympstone or allow development which could encourage coalescence. The green wedge is not an area of land where there are no building or dwellings, there

are pockets of houses and ribbon developments along the network of country lanes, indeed surrounding the site there are a handful of dwelling, some of which are former barn conversions. In strict policy terms the use of the barn is contrary to adopted Local Plan Strategy 8 and Neighbourhood Plan policy 3, as previously mentioned though, consideration must be given to the planning history of the site and its accepted residential use through the prior notification procedure. Notwithstanding the use of the building for residential purposes, its design and appearance would be acceptable in its surroundings.

Accordingly, the proposal is considered to be acceptable in relation to Policy D1 of the EDDC Local Plan but contrary to Strategy 8 of the EDDC Local Plan and Policy 3 of the Neighbourhood Plan, these issue will be drawn together in the planning balance.

Impact on highway safety

The site would be accessed through an existing vehicular opening onto the county lane that passes the site, this opening has been in agricultural use for a number of decades. The use of this access has previously been accepted through the granting of planning permission 18/1423/FUL and as there would be no material increase in the size of the dwelling now proposed, no objections could be raised form a highway safety perspective, Devon County Highways Engineer concurs with this view.

Accordingly, the proposed development is considered to be acceptable in relation to Policy TC7 of the EDDC Local Plan.

Ecology

The barn has been subject of previous protected species surveys which confirmed the presence of bat roost, a number of mitigation measures were conditioned on the previous permission on the site (18/1423/FUL). However, during winter 2019/20 the barn suffered relatively extensive damage, including a lifted extent of roofing and some damage to the external walls, a new survey was carried out in July 2020 and no signs of bat roosts or foraging bats were found.

However, in order for the development to result in a biodiversity gain, the updated ecological survey submitted with the application recommended that the development includes:

- a) Two tree mounted bat boxes - to provide alternative roosting locations within he short-term;
 - b) Two inbuilt bat roosting provisions - positioned with external walls;
 - c) One nesting terraces for house sparrow - positioned upon external wall/s;
 - d) One open fronted nest box for wren and robin - positioned upon external wall/s;
- and,
- e) One bee brick - installed within external wall/s.

Accordingly, it is considered that the proposed development is considered to be acceptable in relation to Policy EN5 of the EDDC Local Plan.

Appropriate assessment

The nature of this application and its location close to the Exe Estuary and Pebblebed Heaths 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 working in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

Planning balance and conclusion

The proposal represents a departure from adopted development plan policy and the Lympstone Neighbourhood Plan in that the proposal effectively seeks to provide a new dwelling in the open countryside and green wedge, and where the proposal can no longer be classed as a conversion of a redundant building as the majority of the building has either fallen down or had to be taken down for safety reasons. For this reason as well, the applicant has lost any fall-back consent/position.

However, the one remaining wall has been supported and encompassed into the design of the new dwelling, and the design closely follows the footprint, scale and appearance of the building that has stood on site for a number of decades and which would have occupied the site under application 18/1423/FUL.

Whilst a very strict interpretation of planning policy could lead to a refusal of planning permission on the basis of the loss of any fall-back position, in light of the site history and the proposed building appearing identical to what would have been constructed on the site, and given that the re-building of the barn to provide a dwelling would not be harmful on its surroundings and would add another dwelling to the housing stock of the district, on balance, it is considered that the proposal should be accepted.

RECOMMENDATION

APPROVE subject to the following conditions:

1. 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.)
2. 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), the dwelling hereby permitted shall not be enlarged, extended or altered and no sheds, other ancillary buildings, swimming or other pools shall be provided within the curtilage of the dwelling without the prior express consent of the Local Planning Authority. (Reason - In the interests of the character and appearance of the area in accordance with policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031.)

3. Development shall proceed in accordance with the Biodiversity Compensation & Enhancement recommendations of the update to the Bat and Protected Species Survey and Bat Emergence Survey reference 160726 rev00 dated 3rd July 2020
(Reason: To ensure that the species identified in the report are protected during and after the development has been carried out in accordance with Policy EN5 (Wildlife Habitats and Features) of the East Devon Local Plan).

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council 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:

8299-LP	Location Plan	03.06.21
8299-12 A	Proposed Floor Plans	03.06.21
8299-11 A	Proposed Site Plan	03.06.21

List of Background Papers

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