

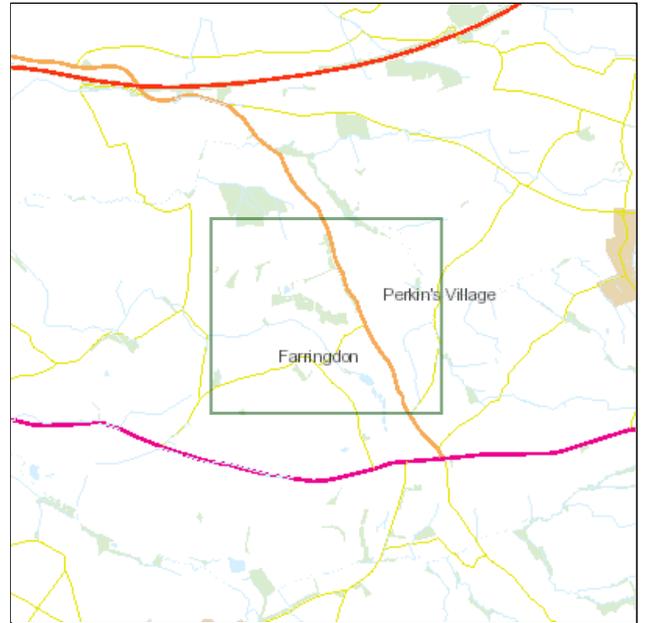
**Ward** Broadclyst

**Reference** 21/1436/FUL

**Applicant** Mr Mike Palmer

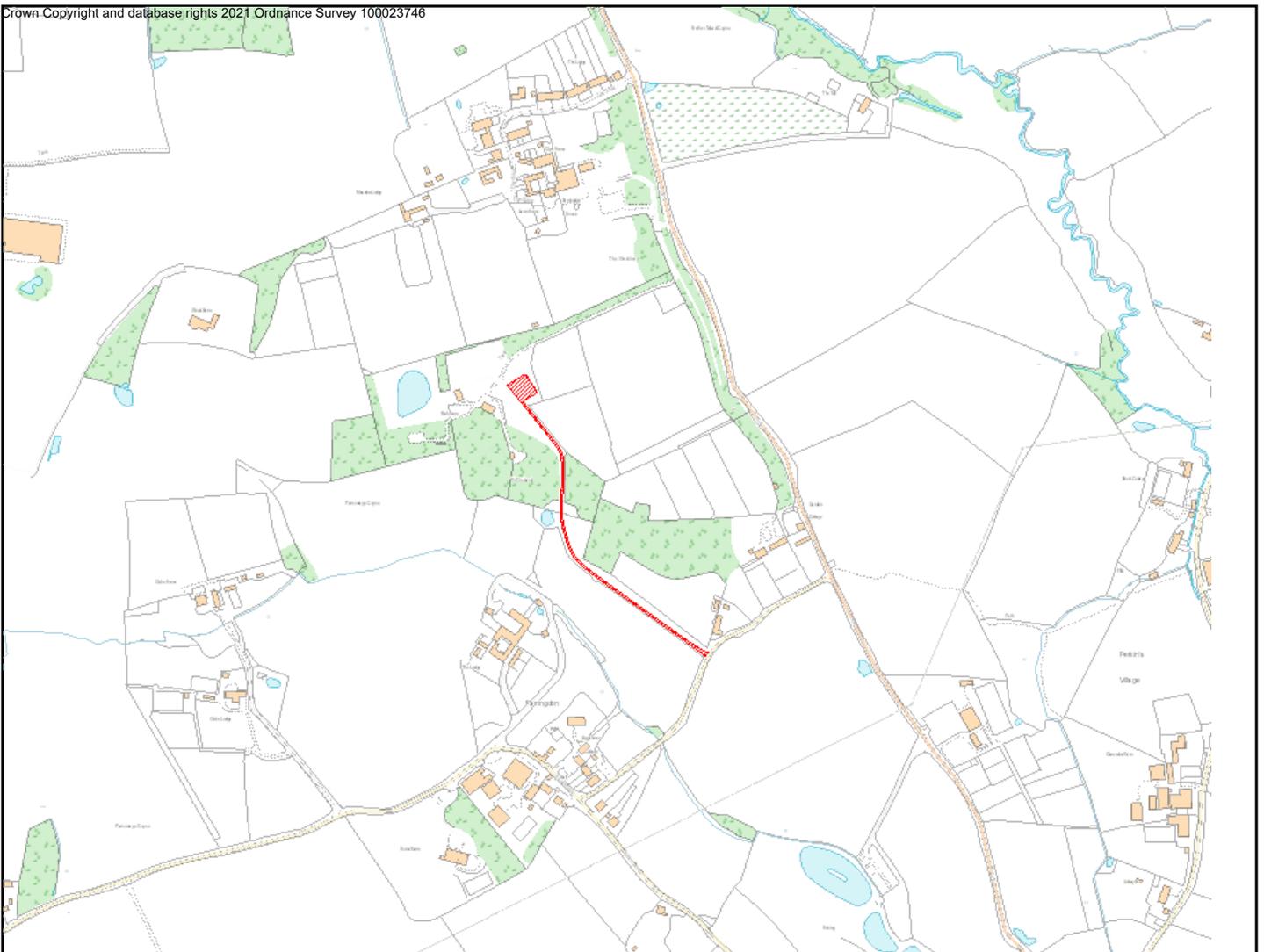
**Location** Park Farm Farrington Exeter EX5 2JD

**Proposal** Construction of bungalow with parking space



**RECOMMENDATION: Refusal**

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		<b>Committee Date: 19<sup>th</sup> January 2022</b>
<b>Broadclyst (Farringdon)</b>	<b>21/1436/FUL</b>	<b>Target Date: 02.08.2021</b>
<b>Applicant:</b>	<b>Mr Mike Palmer</b>	
<b>Location:</b>	<b>Park Farm Farringdon</b>	
<b>Proposal:</b>	<b>Construction of bungalow with parking space</b>	

**RECOMMENDATION: Refusal**

### **EXECUTIVE SUMMARY**

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

**This application relates to a site at Park Farm, which is located within the Parish of Farringdon. The application site is located to the east of two other dwellings at Park Farm, and is a largely level area of land close to access drive to the site. Like the whole of the Farringdon parish, Park Farm is outside of any built-up area boundary and, therefore, is considered to be in the open countryside.**

**Planning permission is sought for the construction of a three bedroom bungalow and two vehicle parking spaces.**

**As the application site is located outside a built-up area boundary, support from the East Devon Local Plan 2013 - 2031 is limited, as that seeks to protect the countryside from development. However, there are some circumstances where Local Plan polices can provide support for a dwelling in the countryside, such as Policy H4 (Dwellings for Persons Employed in Rural Businesses). In this instance though, the applicant has not provided evidence to support an application on the basis of that policy. Therefore, the Local Plan does not offer any support for the proposal.**

**However, Farringdon Parish has a 'made' Neighbourhood Plan. This contains a Policy (Farr5 - Self-build and Custom-Built Dwellings). It is under this policy that the applicant feels that the proposal can be considered/determined. That policy listed a number of criteria under which applications for a dwelling within the curtilage of an existing dwelling can be permitted. The proposal meets the majority of the criteria to Policy Farr5. However, crucially, the proposal fails to comply with two elements of Policy Farr5 and the policy states that all criteria must be met.**

The first of those is that development permitted under Policy Farr5 must be located within the curtilage of the host dwelling. In this instance, whilst there is no doubt that the site is within the ownership of the applicant, the site is not considered by officers to be within the curtilage of the host dwelling. This is on the basis that the site lies outside of the red line on the location plans when the main dwelling was granted planning permission, and the fact that the application site does not appear to have ever been within the curtilage of the dwelling is supported by aerial photographs of the site. The applicant has submitted statutory declarations to counter this argument, but Officers consider the information contained in these to be limited, and insufficient to outweigh the evidence of the planning history and aerial photographs. Consequently, it is considered that the proposal fails to comply with Policy Farr5 on the basis that it is not proposed to construct the dwelling in the curtilage of the host property.

In addition, Policy Farr5 states that dwellings permitted under it must not have an internal floor area exceeding 100m<sup>2</sup>. In this instance, the proposed property, would have an internal floor area of 101.69m<sup>2</sup>. Clearly, this fails to comply with Policy Farr5.

The proposed dwelling is considered in all other regards - such as in terms of its visual impact, parking provision and any impact on public highways. However, given the lack of any policy support for the proposal, it is considered that the application is unacceptable. Therefore, it is recommended that this application is refused.

## **CONSULTATIONS**

### **Local Consultations**

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

Farringdon Parish Council Comment

Farringdon Parish Council fully supports this application. We are aware there are three generations of family living here and that the applicant wishes to free up the larger family home and build a retirement home for himself.

-The proposed bungalow is well screened

-It will be in a large plot

-It is single storey

-It has a slate roof

-It is a traditional design and a 3 bedroom retirement property of the correct size. This proposal fully complies with the Farringdon Neighbourhood Plan Policy Farr 5

#### **Broadclyst - Cllr Eleanor Rylance**

I am concerned as I have been notified that you might be on the verge of rejecting the above application, which I believe fits in with the adopted Farringdon Neighbourhood Plan- it involves developing low-level housing for an existing resident wishing to downsize.

I believe that in the case of this application, the overall benefit to the community of allowing the application to proceed despite it being outside the BUAB of Farringdon

means that I believe that an exception should be made in this application to the rule on building outside the BUAB. The bungalow in question would be built in the grounds of the existing house, and would permit the owner to live near family support in a multi-generational set-up and would enable the whole family to remain in the community together.

I support this application and would ask that it be called in to planning committee if the intention of the planning department is to reject it.

## **Technical Consultations**

### **Building Control**

In respect of the email below, it is my understanding that to “*meet accessible and adaptable standards set out in the Building Regulations and, ideally, is also suitable for wheelchair users*” is a matter which is dealt with under a planning condition to allow the optional requirements M4(2) – *Accessible and adaptable dwellings* or M4(3) – *Wheelchair user dwellings* to be made a requirement of Building Regulations approval. Please see the extract from Approved Document M Volume 1 below. There is insufficient information on the submitted planning drawings to fully assess compliance with these requirements and site topography will influence the external access arrangements. However, broadly both optional requirements would require level or ramped access from a parking area and possibly an external canopy over entrance doors and internal layout re-planning may be required to meet the space requirements of requirement M4(3), depending on fittings and furniture arrangements etc.

### **Summary**

**0.1** This approved document gives guidance about how to comply with requirements M4(1), M4(2) and M4(3) of the Building Regulations. It contains the following sections:

**Section 1:** Category 1 – Visitable dwellings

**Section 2:** Category 2 – Accessible and adaptable dwellings

**Section 3:** Category 3 – Wheelchair user dwellings

### **Application**

**0.2** The recommendations of this volume of this approved document apply to newly erected dwellings, and dwellings undergoing material alteration, only. They do not apply to the extension of a dwelling.

### **Optional requirements**

**0.3** Requirements M4(2) and M4(3) are ‘optional requirements’ as defined in the Building Regulations. An optional requirement only applies where a condition that one or more dwellings should meet the relevant optional requirement is imposed on new development as part of the process of granting planning permission. Where no condition is imposed, dwellings only need to meet requirements M4(1). Compliance should be assessed against only one of requirements M4(1), M4(2) or M4(3) for any given dwelling.

### **Environmental Health**

I have considered the application and recommend attaching the following condition in order to cover concerns in respect to drainage:

The proposed treatment plant will need to be capable of accepting the volume of foul water generated by at least 22 people however, extra capacity must be built into the system to allow for any power cuts. This should amount to at least 2-3 days. Further information should be sought from a drainage engineer on this matter if required. The plant should be linked into an high level alarm system as per the manufactures instructions

Other Representations

No third party representations have been received.

**PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
00/P1051	Erection Of Dwelling House	Approval with conditions	11.08.2000
01/P0688	Erection Of New Dwelling	Approval with conditions	10.07.2001
15/2337/PDQ	Prior approval for change of use of agricultural building to a dwelling (use class c3) and associated operational development	PDQ Prior approval granted	24.11.2015

**POLICIES**

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

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

H4 (Dwellings for Persons Employed in Rural Businesses)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

### **Site Location and Description**

This application relates to a site at Park Farm, which is located within the Parish of Farringdon. The application site is located to the east of two other dwellings at Park Farm, and is a largely level area of land close to access drive to the site. The drive is approximately 500 metres in length and joins a minor public highway to the south of the property. That distance, in addition to trees and woodland around the property, some of which are the subject of Tree Preservation Orders (TPO's), mean that there are no public vantage points of the site. There are no listed buildings close to the site, and there are no landscape or other designations impacting Park Farm. Like the whole of the Farringdon parish, Park Farm is outside of any built-up area boundary and, therefore, is considered to be in the open countryside.

### **Proposed development.**

Planning permission is sought for the construction of a three bedroom bungalow and two vehicle parking spaces.

### **ANALYSIS**

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

#### **Principle**

As the application site is located outside a built-up area boundary, support from the East Devon Local Plan 2013 - 2031 (Known as the 'Local Plan' for the remainder of this report) is limited, as that seeks to protect the countryside from development. However, there are some circumstances where Local Plan policies can provide support for a dwelling in the countryside, such as Policy H4 (Dwellings for Persons Employed in Rural Businesses). In this instance though, the applicant has not provided evidence to support an application on the basis of that policy. Therefore, the Local Plan does not offer any support for the proposal.

However, Farringdon Parish has a Neighbourhood Plan, which was 'made' following a referendum on 6th May 2021. This contains a number of policies but, especially relevant to this proposal, is Policy Farr5 (Self-build and Custom-Built Dwellings). It is under this policy that the applicant feels that the proposal can be considered/determined. Therefore, Policy Farr5 of the Neighbourhood Plan is a key consideration in the determination of this application. Policy Farr5 reads as follows:

*In order to meet the need for additional housing identified in the Farringdon Housing Needs Assessment (2020,) up to 12 new homes in the neighbourhood area will be supported. Each new dwelling must comply with all the following criteria:*

*a) it is self-built,*

- b) the new dwelling, including access and outside space, will be located within the curtilage of an existing dwellinghouse (and limited to one dwelling),*
- c) it is single storey,*
- d) has a maximum 100m<sup>2</sup> gross internal area (as defined by RICS),*
- e) does not exceed three bedrooms; and*
- f) meets accessible and adaptable standards set out in the Building Regulations and, ideally, is also suitable for wheelchair users.*

*The development should:*

- g) be of a high quality that respects the setting of heritage assets and the rural character of Farringdon;*
- h) form a harmonious relationship with the existing dwelling and any neighbouring properties;*
- i) make adequate provision for private amenity space and off-street parking for both the existing and additional dwelling;*
- j) ensure that access arrangements do not detract from the host dwelling or neighbouring properties in terms of appearance, noise or fumes; and*
- k) include boundary treatments that reflect those prevailing in the area.*

*Development proposals which are carbon neutral, or as near to carbon neutral as is reasonably possible, shall be strongly supported provided they comply with other relevant policies of the Neighbourhood Plan.*

*The development should not lead to the overdevelopment of a site nor the unacceptable loss of amenity for neighbouring properties.*

*Permitted development rights will be withdrawn to ensure reasonable controls exist over future extension and modification of dwellings in the interests of protecting the character of the area and to ensure the size of the dwelling is controlled.*

Given the significance of this policy to the consideration of this proposal, each of the criteria in it are assessed below:

- a) it is self-built.

In part 16 of the application form, the applicant has ticked that the development would be self-built. However, it is not possible to impose a condition to ensure that this remained the case, as such a condition would be challenging to enforce. Instead, in the event that this application is approved, a legal agreement will be required to ensure that the development was self-built.

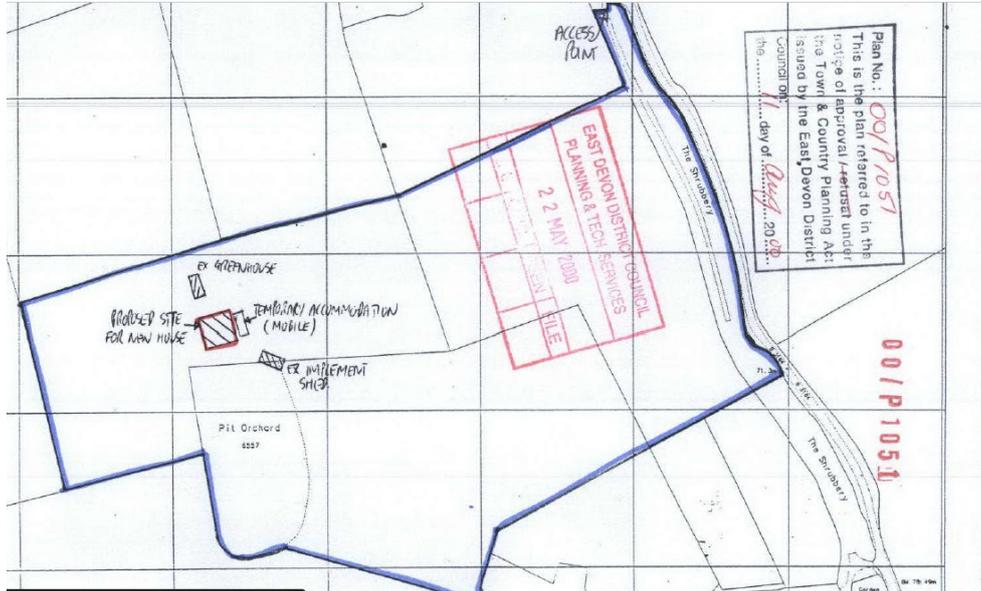
- b) the new dwelling, including access and outside space, will be located within the curtilage of an existing dwellinghouse (and limited to one dwelling)

The application site is within the ownership of Park Farm, as demonstrated by the blue line on the site location plan and by the ownership certificate on the application form. However, there is a difference between ownership and curtilage, and Policy Farr5 is clear that any new dwelling permitted under that policy must be located within the curtilage (in effect the lawful garden) of the host dwelling; in this case Park Farm.

When a dwelling is granted planning permission, its curtilage is defined by the red line on the location plan. Park Farm was granted outline permission on appeal on 23/02/01, with reserved matters consent being granted on 10/07/01 (Applications 00/P1051 and

01/P0688 refer). In both cases, as can be seen from the location plans below, the red line only outlined the location of the dwelling. This means that no curtilage for the dwelling has been defined.

00/P0151:



01/P0688:



Consequently, the Council has used aerial photos to assess its view on the extent of the curtilage associated with the dwelling approved by the aforementioned applications. It is considered that the residential curtilage of Park Farm, based on the current situation, is as outlined in red on the plan below (for information, the application site is outlined in blue):



The aerial photos shown below clearly indicate that the application site has never had a domestic use or appearance.

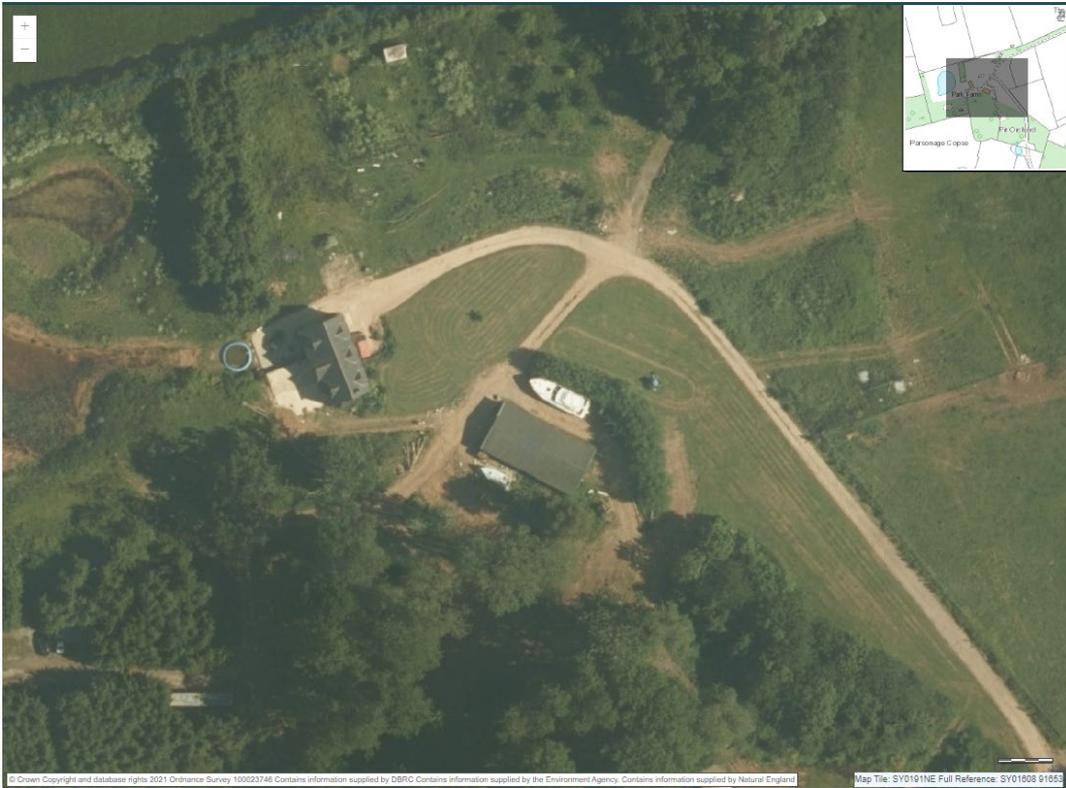
2005/6:



2010:



2014/15:



2016:



2019:



Given the evidence shown on the photos above, it is considered that the proposal to which this report relates does not fall within the curtilage of Park Farm.

For the avoidance of doubt, it is also clear that the application site falls outside of the curtilage of the property known as The Barn, which was converted to a dwelling under application number 15/2337/PDQ. The plans for that application show the following red line/curtilage area:



Notwithstanding the above, it is acknowledged that the applicant submitted two statutory declarations relating to the curtilage area of Park Farm. A Certificate of Lawfulness application has not been submitted, so the evidence/details within these declarations has not been assessed through that process. However, it has been considered during the determination of this application. It is the Officers opinion that details supplied in the statement is limited, and does not appear to be supported by clear evidence. Furthermore, there are some substantial time gaps in the declarations; for example, there is a gap of eight years between items 2 and 3, and then a further gap of the same length between items 7 and 8. Additionally, Officers are of the view that some details provided on the declarations do not necessarily demonstrate that the land in question was within the residential curtilage of the dwelling; for example, details of the council tax band or the planting of a hedge and trees.

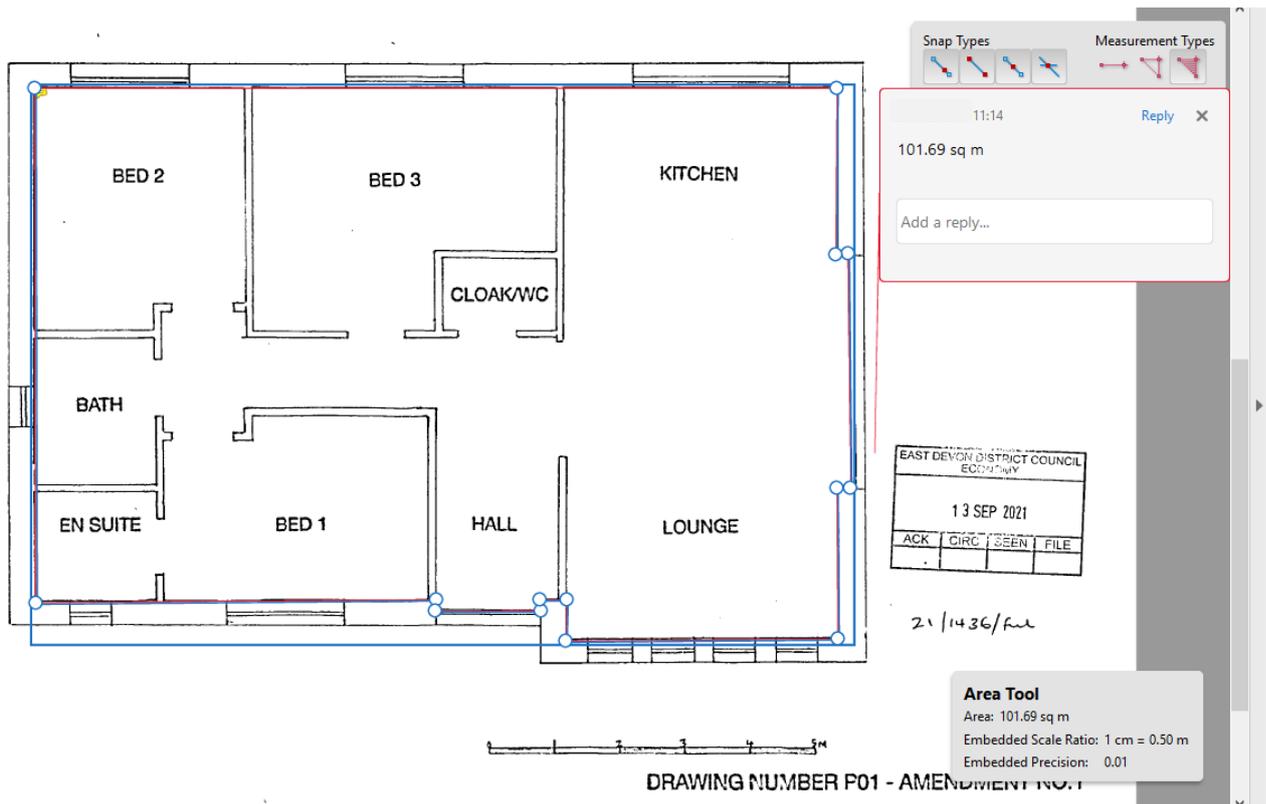
Given the above, it is considered that the site to which this application relates does not fall within the curtilage of Park Farm. Consequently, the proposal does not comply with criteria b of policy Farr5.

c) it is single storey

The submitted plan show that the proposed property would be a bungalow.

d) has a maximum 100m<sup>2</sup> gross internal area (as defined by RICS)

RICS defines the internal flood area as the area within the internal face of the walls, and their Code of Measuring Practice states that the measurement includes almost any space within that area. Critically, in this instance, the Code of Measuring Practice states that the Gross Internal Floor Area includes "columns, piers, chimney breast, stairwells, lift-wells, other internal protections, vertical ducts, and the like". Taking this into account, the internal floor space of the proposed property is measured to be 101.69 square metres. This measurement is shown below:



Clearly, this is in excess of the 100m<sup>2</sup> permitted by Policy Farr5 and, therefore, the proposal fails to comply with this element of the policy.

e) does not exceed three bedrooms.

The proposed floor plan shows that the dwelling would have three bedrooms.

f) meets accessible and adaptable standards set out in the Building Regulations and, ideally, is also suitable for wheelchair users.

Discussions with the Council's Building Control Department have confirmed that it is possible for the relevant Building Regulation requirements to ensure that a dwelling meets these standards to be imposed through a planning condition. Given that, in the event that this application is approved, a condition to ensure that would need to be imposed.

g) The development should be of a high quality that respects the setting of heritage assets and the rural character of Farringdon.

The application site is not located in a designated area, and there are no listed building within the vicinity of the site. The site is well screened by trees surrounding the site. As a consequence, there are no long distance views of the site, and the property would not be visible from the public domain. The two existing properties within Park Farm are the closest to the site. The design and scale of the proposed dwelling is considered to be such that it would not be detrimental to those properties. Therefore, the quality of the proposed dwelling is considered to be acceptable for its location.

h) The development should form a harmonious relationship with the existing dwelling and any neighbouring properties.

The scale of the proposed dwelling is such that it would not dominate the existing dwellings on the site, and is considered acceptable with regard to this criteria.

i) The development should make adequate provision for private amenity space and off-street parking for both the existing and additional dwelling.

The proposed site plan shows that vehicle parking and amenity/garden space would be provided.

j) The development should ensure that access arrangements do not detract from the host dwelling or neighbouring properties in terms of appearance, noise or fumes.

The proposed access to the site would not give rise to any issue of this nature.

k) The development should include boundary treatments that reflect those prevailing in the area.

No details of boundary treatment have been provided. However, should this application be approved, details of boundary treatment could be sought by condition.

### **Visual Impact**

The location and design of the proposed dwelling is such that it would not result in a loss of amenity to the occupiers of other dwellings. Furthermore, its scale and location are such that it would not result in visual harm to the countryside; and, in the event that the application is approved, conditions could be imposed to ensure that the materials and landscaping are suitable for the rural location.

No trees would be harmed by the proposed development.

### **Highway Safety**

Sufficient parking is provided for the size of the property, and it would not have a detrimental impact on highway safety.

Consequently, it is considered that, despite the lack of in principle support for the proposal in the Local Plan, the development would accord with Local Plan Policies D1 (Design and Local Distinctiveness) and TC9 (Parking Provision in New Development).

### **Other matters**

With regard to the National Planning Policy Framework (NPPF) 2019, it is considered that the proposal would not meet the requirement of Paragraph 80, which sets out the circumstances under which dwellings in isolated locations may be permitted. However, the location of the site in the Countryside, remote from services, is such that the proposal would not meet the requirements of Local Plan Policy TC2 (Accessibility of New Development), which seeks to ensure that new development is in a sustainable location.

The application site is located within 10 kilometres to the Exe Estuary and Pebblebed Heaths. Their European Habitat designations are 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 through a Section 111. 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.

### **CONCLUSION**

It is clear from the report above that there is no support in the East Devon Local Plan 2013 - 2031 for the proposed development; this is by virtue of the site being located in an unsustainable rural location, and the property not being for a rural worker. Given this, the only policy under which the proposed dwelling can be supported is Policy Farr5 of the Farringdon Neighbourhood Plan 2018 - 2031. However, the proposal fails to comply with two elements of that policy; critically that the site is not within the curtilage of Park Farm, and secondly that the floor area of the proposed dwelling exceeds 100m<sup>2</sup>. Consequently, the proposal does not comply with any policy and, therefore, it is recommended that this application is refused.

### **RECOMMENDATION**

REFUSE for the following reasons:

1. The proposed dwelling would be located outside of a built-up area boundary, where the construction of a dwelling is contrary to the provisions of Strategy 7 (Development in the Countryside) of the East Devon Local Plan 2013 - 2031. Furthermore, the proposal does not meet the criteria Local Plan Policy H4 (Dwellings for Persons Employed in Rural Businesses). When assessed against Policy Farr5 (Self-Build and Custom-Built Dwellings) of the Farringdon Neighbourhood Plan 2018 - 2031, it is considered that the application site is outside the curtilage of Park Farm, and that its internal floor area of the proposed dwelling would exceed 100m<sup>2</sup>. Therefore, the proposal fails to comply with the provisions of Policy Farr5. Consequently, the proposal is considered to be contrary to the provisions of both the East Devon Local Plan 2013 - 2031 and the Farringdon Neighbourhood Plan 2018 - 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 proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

##### Plans relating to this application:

LP01 and LP02	Proposed Site Plan	21.05.21
LP03	Location Plan	07.06.21
E04 : NW	Proposed Elevation	21.05.21
P02	Proposed roof plans	07.06.21
P01 (1)	Proposed Floor Plans	13.09.21
E03	Proposed Elevation	21.05.21
E01 (1) : front	Proposed Elevation	13.09.21
E02 (1) : rear	Proposed Elevation	13.09.21

##### List of Background Papers

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