

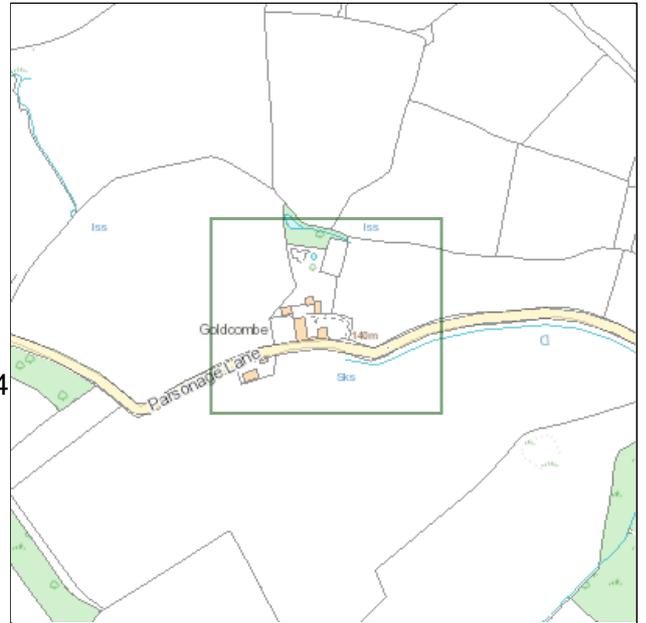
Ward Feniton

Reference 21/2474/FUL

Applicant Mr & Mrs P & A Stansell

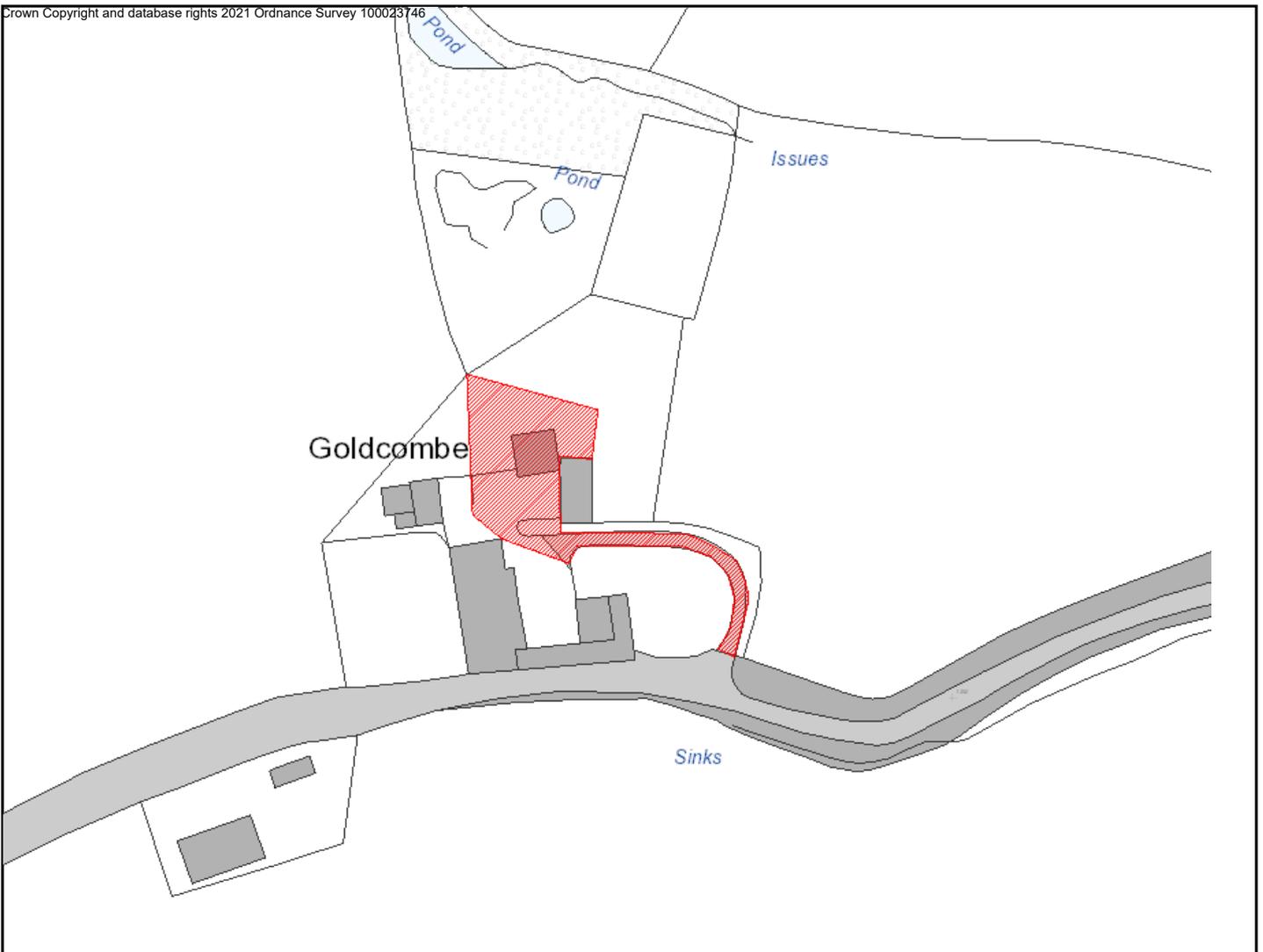
Location Goldcombe Farmhouse Gittisham Honiton EX14 3AB

Proposal Change of use of holiday let to dwelling



RECOMMENDATION: Refusal

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		Committee Date: 19th January 2021
	21/2474/FUL	Target Date: 22.11.2021
Applicant:	Mr & Mrs P & A Stansell	
Location:	Goldcombe Farmhouse Gittisham	
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EXECUTIVE SUMMARY

This application is before Members as the officer recommendation differs from the view of the Ward Member.

The application seeks planning permission to change the use of a holiday let known as the Cider Barn to an independent dwelling.

The main issues for consideration is the principle of development and accessibility of the application site for day to day use as a residential dwelling.

There is general support for the conversion of rural buildings through the provisions of Policy D8 (Re-use of Rural Buildings Outside of Settlements). However criteria c) of the policy requires development to be located close to a range of accessible services and facilities to meet the everyday needs of residents. This overarching objective of the Local Plan to ensure development is sustainably located and is accessible by public transport, cyclists and pedestrians is reflected within Policy TC2 (Accessibility of New Development).

In this case the building in question is located approximately 700m away from the village of Gittisham. There is debate to whether individuals would walk to the village from this distance without access to any public footpaths and pavements. Additionally, the Village of Gittisham is not considered to have a wide range of services and facilities to be considered a sustainable location and the site is also remote from Honiton, the nearest settlement providing such amenities. The sheer distance between the application site to Honiton and lack of opportunities to utilise public transport is likely to result in occupants of the dwelling being solely reliant on private modes of transport for day to day living. As the proposal does not meet all of criteria in Policy D8, particularly criterion (c), the use of the building as an unrestricted dwelling conflicts with this policy.

Therefore the site is not in a suitable location for unrestricted residential development. Additionally weight is attributed to economic benefits that tourism accommodation to the districts economy that would be lost through the proposal.

In the absence of any material considerations to indicate otherwise, despite support from a Local Ward Member, the Parish Council and third parties, it is recommended that the application be refused in accordance with the development plan.

CONSULTATIONS

Local Consultations

Feniton - Cllr Alasdair Bruce

I would be in favour

Parish/Town Council

Gittisham parish councillors have no objection. Members fully support the application, and welcome having additional rented properties in the village.

Cllr Valentine declared an interest.

Other Representations

9 letters of support have been received. Some comments are given below;

“With 7 hotels spread across the South Coast and employing over 100 staff we are always on the look out for staff accommodation. Having another option within walking distance of the hotel would aid this greatly, many of the staff we employ have not yet passed driving tests or cannot afford a car. I cannot see what the addition of accommodation here would do to cause any disruption to the local area and as I say I feel it would be a useful addition.”

“I fully support this application. We need more long term rentable accommodation in East Devon as there is a lack of house for the local workforce.”

“I am writing to confirm that in my professional opinion, there is currently a shortage of properties in the Honiton local area to rent.

I can imagine that there would therefore be high demand for the property owned by the above named clients' - two bedroom properties are rather like gold dust on the residential lettings market at the moment!”

“I fully support this application. Additional rental properties being available in the community will facilitate the ability of families, and in particular young families, to live affordably in the locality.”

“Need for affordable properties locally”

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

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

TC2 (Accessibility of New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

Site Location and Description

The site is located off Parsonage Lane, a single track rural road that runs east out of Gittisham. The surrounding landscape forms part of the designated East Devon Area of Outstanding Natural Beauty. Goldcombe Farmhouse is a Grade II listed property, with the listing including the western walls that enclose the garden. The Cider Barn and the Owl Loft are located to the north east of the farmhouse and are joined at one corner but detached from other buildings. They are finished in a combination of stone, render and timber boarding and have slate roofs. The Owl Loft is accessed directly at first floor level from the adjacent driveway which then descends to a small courtyard enclosed by the buildings from where The Cider Barn is accessed.

Planning History

Application 20/0912/VAR sought to vary the conditions applying to the two holiday lets (Cider Barn and Owl Loft). This follows an earlier application in 2019 relating to only one of the holiday lets which was withdrawn following an indication that the application would be recommended for refusal (19/0259/VAR).

The buildings were converted to holiday lets in around 1990 after approval of applications 84/P0792 and 87/P1345. Application 20/0912/VAR that sought permission to remove the holiday tie from the application building (the Cider Barn) so that it can be occupied as an independent dwelling (requiring removal of both conditions 5 and 6 of the original consent to convert the barns) was approved albeit the decision by the Local Planning Authority to apply a condition that continued to restrict the Cider Barn's use as holiday accommodation prompted an appeal.

The Inspector for the appeal (APP/U1105/W/21/3267313) concluded that in light of the findings of the '*Finney*' judgement to allow the unrestricted residential use of one or both of the units is beyond the scope of the s73 application made to the Council. This would require the submission of a fresh planning application. This application is now before the Local Planning Authority.

Proposed Development

Subsequent to the findings of the inspector in his assessment of APP/U1105/W/21/3267313 this application seeks planning permission to change the use of the Cider Barn from a holiday let to a dwelling. No external alterations are

proposed as part of the application. As such, it is purely the principle of the change of use that is being considered.

Principle

High Court case *Mills v SOS* (2019) EWHC 3476 provided a judgement on how local planning policy E18 - Loss of holiday accommodation should be interpreted. Previously it was held by both the LPA and Planning Inspectorate that policy E18 and its stipulations were applicable to the whole of the District. What the high court decision has clarified, in effect, is that the restrictions within it only apply to the four named settlements of Exmouth, Budleigh Salterton, Seaton and Sidmouth. Therefore this policy has no bearing on the current proposal which is situated outside of these settlements.

The loss of the holiday accommodation in this instance is not a relevant policy consideration. Despite this, it remains the case that tourism is a key sector of the East Devon economy and therefore economic factors are a relevant consideration in the determination of this application and are considered later in this report.

The spatial strategy for development is focused around the seven main towns and larger villages with built up area boundaries, as described by Strategy 27, will form focal points for development. However, Gittisham is not included as such a settlement and therefore was not considered to have an appropriate level of services and facilities to support further residential growth. Therefore, for planning purposes, the proposal takes place within the open countryside and therefore subject to restrictive rural policies.

Strategy 7 (Development in the Countryside) of the East Devon Local Plan states that development in the countryside will only be permitted where it is in accordance with a specific Local Plan or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape qualities within which it is situated.

There are a number of policies within the Local Plan that support residential development in countryside locations. Whilst the provisions of Policy H4 (Dwellings for Persons Employed in Rural Businesses) allows the provision of dwellings that meet an identified need at or near their place of work, the use of the Cider Barn would not be for meeting a need for a rural worker.

Reference is made within the submitted Design and Access Statement to Policy D8 (Re-use of Rural Buildings Outside of Settlements) which does permit the conversion of buildings in the countryside to residential use subject to certain criteria. In particular the policy explicitly highlights the need for residential uses to be located close to wide a range of accessible services and facilities to meet the everyday needs of residents. In this case the building in question is located 700m away from the village of Gittisham. There is debate to whether individuals would walk to the village from this distance without access to any public footpaths and pavements. Additionally, the Village of Gittisham is not considered to have a wide range of services and facilities to be considered a sustainable location and the site is also remote from Honiton, the nearest settlement providing such amenities. The sheer distance between the application site

to Honiton and lack of opportunities to utilise public transport is likely to result in occupants of the dwelling being solely reliant on private modes of transport for day to day living. As the proposal does not meet all of criteria in Policy D8, particularly criterion (c), the use of the building as an unrestricted dwelling conflicts with this policy.

Accessibility

For reasons already highlighted above in the assessment of policy D8(c), it is also concluded that the development would be contrary to Policy TC2 (Accessibility of New Development) as the development would not be accessible to pedestrians, cyclists and public transport and increase the need to travel by car.

Whilst it is acknowledged that the building in question has permission as a holiday let, it is considered that an independent residential use would be different and would result in an increase trips made to and from the site. This position is supported by case law demonstrates that the situation is nuanced. The High Court case of Moore v. SSCLG [2012] EWCA Civ 1202 and appeal decisions APP/Q0505/C/18/3196460 and APP/G3110/C/19/3239740 indicate that each case needs to be considered on its facts and that a holiday use can be materially different to a full time residential use. In particular, these cases show that holiday use can be characterised by a largely transient pattern and frequency of occupancy, compared to the settled pattern of occupancy usually associated with full time occupation.

Furthermore an inspector within their findings during the assessment of APP/U1105/W/21/3269783 at Apple Barrel Barn, Dunkeswell, concluded that journeys by private car would be likely to increase as the occupiers of the building as a permanent residential dwelling would need to regularly access goods and services including those for employment or education. Subsequently it was concluded when comparing a holiday use to an unrestricted residential use that “it is likely that this would be quite different to journeys a holiday maker may make as they are likely to spend more time at the property to enjoy the peaceful environs of the site, and only make journeys from the building for leisure purposes”.

Another noteworthy appeal decision includes an appeal decision at Blossom Hill Park, Dunkeswell (APP/U1105/W/17/3214117 provided in Appendix 1) where the Inspector concluded that *“the use of the units for unrestricted residential use would be materially different from a holiday use and would conflict with the Development Plan and in particular, policies (sic) Local Plan Policies 7, 33, 35 and [Dunkeswell Neighbourhood Plan] Policy HP1”*.

Other Considerations

Paragraph 2 of the NPPF states that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Two representations have been made by local estate agents who emphasize that there is a shortage of rental properties within the local rural area. However there is no robust evidence before the Council or an adopted Neighbourhood Plan with policy that emphasizes a need for such accommodation and therefore little weight is attached to this argument. In addition, there can be no guarantee that the

unit would be rented as once the holiday tie is removed, the building could be sold with no guarantee of it being rented to meet the needs identified by the third parties.

Comments have also been submitted by the applicant's accountants and tax advisors David Collard & Co. Their comments state that they have seen a downward trend in respect of the client's holiday business and for the year ending 5th April 2019 a loss was recorded. Despite this, it is understood that the four years proceeding this date profits were recorded and no further up to date evidence has been submitted to indicate that since 2019 this has continued to be the case. In addition, following Covid19 and the restrictions on foreign travel and uplift in staycations, the experience of officers is that holiday accommodation is currently in high demand if and where marketed well.

The Local Plan highlights the contribution holiday accommodation makes to the local economy and therefore loss of such uses should be resisted unless evidence indicates otherwise. Whilst the council has on occasion granted permission to vary, remove or since the *Finney* case, change the use of holiday accommodation, these applications were supported by robust evidence to clearly demonstrate that the continued use would be clearly unviable and, in some cases, a marketing effort conducted in an attempt to sell the freehold. In this case the application has failed to provide any substantive evidence regarding the reason for the decline in bookings or documented any attempts that have been made to turn around the business.

CONCLUSION

The supporting information refers to declining interest in the use of the building as a holiday let and the applicant's desire to make effective use of the building. However, the application is not supported by suitable evidence to demonstrate that the existing use is no longer viable, that the property has been appropriately marketed to attract interest or that other efforts to secure its use for holiday letting purposes have been explored. Therefore the evidence provided carries little weight in the determination of this application. In addition, the building is located where future occupiers are likely to be almost entirely reliant on private motor transport to access shops, services, and employment to meet their day-to-day needs and as such unrestricted residential occupation would represent an unsustainable form of development. In the absence of any material considerations that indicate otherwise, the application should be determined in accordance with the development plan.

Having regard to the LP policies read as a whole, the site is not a suitable location for unrestricted residential development and therefore the condition is reasonable and necessary. The limited benefits to the vitality of Gittisham from providing two unrestricted dwellings would be outweighed by the conflict with the Local Plan and the greater economic benefits of tourism development. The application is therefore recommended for refusal.

RECOMMENDATION

REFUSE for the following reasons:

1. The application site lies in open countryside outside of any designated Built up Area Boundary or Strategic allocation within the East Devon Local Plan and where there are no Local or Neighbourhood Plan policies that would explicitly support the development. Unrestricted residential development in this location would be unsustainable due to the distance to and access route to essential services and facilities required for daily living and where public transport access to further afield settlements is limited. As a result, future occupiers are likely to be heavily reliant on the use of private transport for the majority of journeys and the proposal would be contrary to the provisions of Strategy 5B (Sustainable Transport), Strategy 7 (Development in the Countryside) and Policies D8 (Reuse of the Rural Buildings Outside of Settlements) and TC2 (Accessibility of New Development) of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.

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 seeks to work positively with applicants to try and ensure that all relevant listed building concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

Plans relating to this application:

Location Plan	16.09.21
Block Plan	16.09.21

List of Background Papers

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