

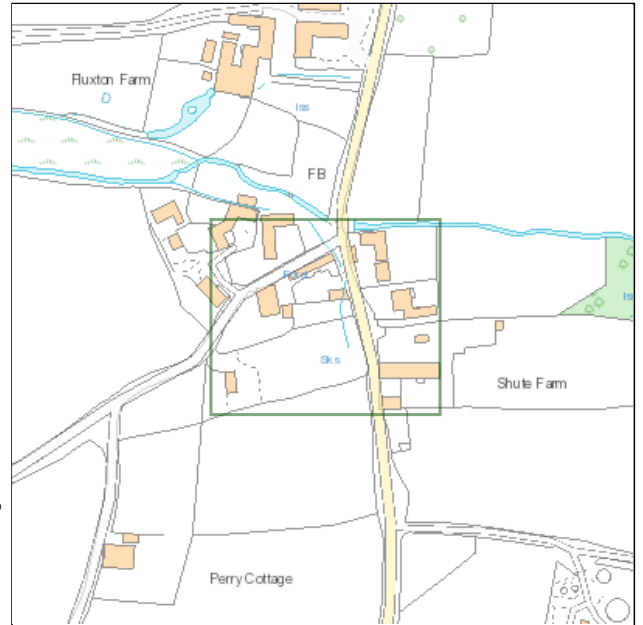
Ward Ottery St Mary

Reference 21/2246/FUL

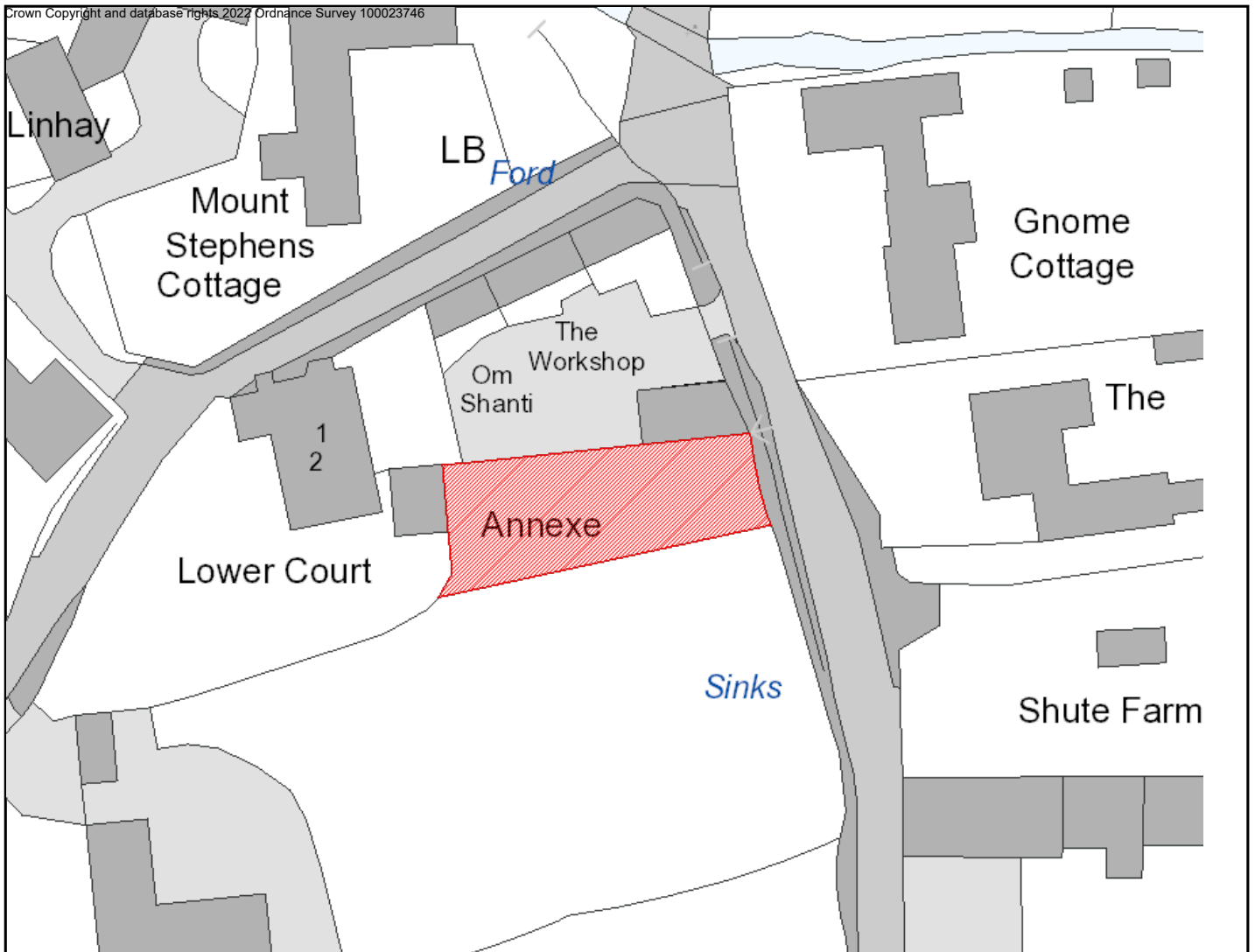
Applicant Mrs Elaine Paget

Location The Barn Annexe 2 Lower Court Cottages
Fluxton Ottery St Mary EX11 1RL

Proposal Change of use of annexe to form independent dwelling and formation of new vehicular access, parking/turning area and path.



RECOMMENDATION: Refusal



		Committee Date: 26th July 2022	
Ottery St Mary (Ottery St Mary)	21/2246/FUL	Target 26.10.2021	Date:
Applicant:	Mrs Elaine Paget		
Location:	The Barn Annexe 2 Lower Court Cottages		
Proposal:	Change of use of annexe to form independent dwelling and formation of new vehicular access, parking/turning area and path.		

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is brought before the Committee as the Officer recommendation is contrary to the view of a ward member.

It relates to a modest two storey outbuilding positioned within the curtilage of 2 Lower Court Cottages, a semi-detached Grade II listed property formed from the sub-division of a former farmhouse, located at Fluxton, to the north of Tipton St. John.

It is currently used as a one bedroom annexe, planning permission having been granted for conversion of the building for this purpose in 1985. A legal agreement was also entered into to secure its ancillary use as well as it being secured by a condition on the related planning permission.

Permission is now sought to remove the annexe occupancy condition to enable the accommodation to be used and occupied as a wholly independent dwelling. It is also proposed to sub-divide the curtilage attached to the main host dwelling in order to provide the prospective new dwelling with its own separate amenity space and form a new vehicular entrance off of the Class 3 road connecting Fluxton and Tipton St. John so as to facilitate separate access and parking provision.

The provisions of Policies D8 and TC2 of the adopted Local Plan are of particular relevance to the proposal and are, in this case, complementary to each other. The former requires, among other things, that new residential development is located close to a range of accessible services and facilities to meet residents' everyday needs while the latter stipulates that new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need for car travel.

It is considered that the proposal fails against these key criteria. The site occupies a comparatively remote rural location with poor pedestrian and cycle connectivity with other settlements. Furthermore, the bus service through the hamlet is infrequent.

The proposal would also fail when considered against another key criterion of Policy D8 owing to the absence of any enhancement to the setting of the building that would result from its 'conversion'; there being no works necessary owing to it already being in use for annexe purposes.

Although the nature of the objections raised by the town council are duly acknowledged, it is not agreed that the proposed hedge removal would result in material harm to the rural character or appearance of the lane or the wider hamlet as to justify opposition to the scheme on the basis of the extent of loss that would be incurred while the point raised regarding the absence of a listed building consent application is not readily understood as no works are proposed to the building.

Equally, the provisions set out in the National Planning Policy Framework that permit the development of 'isolated' dwellings in the countryside through the sub-division of existing dwellings to which reference is made by the ward member are not considered applicable. Case law has established that 'sub-division' only relates to the principal dwelling and not to the separation of ancillary buildings as independent buildings. There is therefore no alternative 'fallback' position in this regard.

In conclusion therefore, having regard to the balance of the above material considerations it is considered that the proposed development would be unacceptable on the grounds of the unsustainable location of the site and therefore its conflict with Local Plan Policies D8 and TC2 and guidance set out in the NPPF.

CONSULTATIONS

Local Consultations

Parish/Town Council

Town Council Comments:

The Town Council does not support this application based on the following;

Proposed removal of a hedge based on DCC highways recommendation.

In the absence of a Listed Building Consent application which has historically been associated with this property.

Ottery St Mary - Cllr Geoff Pratt

I attach below:

- 1. Planning Approval 7/45/85/P0692/00979 dated 8th October 1985**
- 2. Approved plans**

3. Agreement between Antony John Kent Paget and EDDC DATED 30th September 1985

I also refer you to the letter to EDDC planning dated 30th September 2021 from Elaine Paget as shown in the documents section of the planning portal, from which you can see that this application follows pre-application advice.

It is accepted that the 1985 documents restrict the Annexe for independent use but for the reasoning the interest of the amenities of those occupying the converted buildings and Lower Court.

However following the decision in Wiltshire Council Secretary and Secretary of State for Housing, Communities and Local Government 2020 where it was held that from the NPPF para 79d that local planning authorities should support the development by sub division of properties suitable for first time buyers or tenants I feel that the Planning Authority should consider approval of this application.

I note the Ottery St Mary Town Council planning committee recommend refusal based on the proposed removal of a hedge as recommended by DCC Highways and the lack of a listed building application. DCC only require work on the hedge line. There will be no removal of the hedge however. Although Lower Court is a listed building there will be no building works carried out to the buildings and it is therefore submitted that a Listed Building application is not required.

I would be grateful if you would kindly consider this matter further.

Technical Consultations

Devon County Highway Authority
Observations:

I have visited the site and reviewed the planning documents.

I appreciate the proposed works on the hedge boundary to achieve the required visibility splay.

The no-dig method statement for the access over the culvert channel seems to work well.

The site layout includes a turning head for vehicles to turn off-carriageway and re-enter the carriageway in a forward facing motion.

I do recommend the provision of a Construction and Environment Management plan (CEMP), due to the additional engineering works required for this application as opposed to a typical scheme of this type of application.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Construction Management Plan (CMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the planning Authority in advance;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.

Officer authorised to sign on behalf of the County Council
4 April 2022

EDDC Trees

The submitted arboricultural information demonstrates that by implementing the proposed tree protection measures, shown on the tree protection plan, and following the processes described in the associated "no dig" method statement, the proposed development can be carried out without significant impact on the retained trees.

I am satisfied on arboricultural grounds with the condition to be -

Prior to commencement of any works on site (including demolition), Tree Protection measures shall be carried out as detailed within the plans submitted within this application and shall adhere to the principles embodied in BS 5837:2012 and shall remain in place until all works are completed, no changes to be made without first gaining consent in writing from the Local Authority.

In any event, other than what has been shown in the submitted documents as part of this application, the following restrictions shall be strictly observed:

- (a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.

(b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees (Issue 2) 2007.

(c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.

(d) No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the occupation of any building, or the development hereby permitted being brought into use shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

(Reason - To ensure retention and protection of trees on the site prior to and during construction 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 D3 - Trees and Development Sites of the East Devon Local Plan 2013-2031).

Other Representations

No representations relating to the application proposal have been received from any interested third parties.

PLANNING HISTORY

Reference	Description	Decision	Date
85/P0692	Conversion of Barn to Annexe	Approved	8/10/85

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

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

EN9 (Development Affecting a Designated Heritage Asset)

EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Made Ottery St Mary and West Hill Neighbourhood Plan 2017-2031 Policies

NP1 (Development in the Countryside)

NP2 (Sensitive, High Quality Design)

NP3 (Infill, Backland and Residential Garden Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

Site Location and Description

No. 2 Lower Court Cottages is one of two residential properties formed from the subdivision of the former Lower Court Farmhouse, a Grade II listed building located within the hamlet of Fluxton, approximately 1 km. to the north of Metcombe Vale at Tipton St. John.

The properties are set back from the class C public highway that connects the two and oriented at right angles to an unmade track that extends west off of it and connects Fluxton with the southern edge of West Hill.

No. 2 itself is housed within the southern part of the former farmhouse with the neighbouring property, no. 1 Lower Court Cottages, occupying the northern part of the building. A shared pedestrian access from the track to the north extends across the front of both properties.

A separate two storey outbuilding, oriented at right angles to the front of the principal dwelling but physically connected to it by way of a short length of garden wall containing a door, is positioned to the east. It exhibits a simple gabled form and comprises a pantile pitched roof, itself with a west/east oriented ridge, over roughcast rendered and painted walls on its western, and much of the southern and northern, elevations. The eastern elevation, facing towards the road, is recessed beneath a deep roof overhang that incorporates a first floor level balcony with timber balustrade that extends the entire width of the elevation over a patio. Timber-framed French doors/windows feature at both levels in this elevation, allowing access to both. There are also a further 3no windows and a door in the north elevation of the building and a small lancet-style window at first floor level in the south elevation.

Currently used as annexe accommodation (planning permission 85/P0692 refers) in conjunction with the occupation of the main property, the building houses combined kitchen/dining and living space, together with a toilet/bathroom, on the ground floor with a combined bedroom/'living' area above.

The building effectively splits the curtilage area attached to the property into two, with part to its west (and south of the southern elevation side wall of the main dwelling) and part to its east where it falls gently towards the public highway, the frontage with which is defined by a fence, hedge and trees at the rear of a roadside brook. This area is separated into two levels by a short flight of four steps with the lower level, nearer to the roadside boundary, featuring a pond and a small number of trees and the slightly higher level mainly laid to grass.

A smaller 'front garden' area, comprising a single space with the front garden of no. 1, is physically separated from a parking area to the east that is used in conjunction with holiday letting/guest accommodation formed from the conversion of a linear range of former farm buildings (originally functionally connected with Lower Court Farmhouse) that lines the southern side of the track down to the junction with the highway.

Proposed Development

The application proposal incorporates two principal elements as follows:

1. The change of use of the annexe accommodation to form an independent dwelling, entirely separate from no. 2 Lower Court Cottages, together with the sub-division of the curtilage to create a separate garden area; this comprising the part of the existing garden to the east of the building.
2. The formation of a new vehicular access/entrance off the highway and associated parking (for two vehicles) and turning area provision to be used in conjunction with the proposed independent use and occupation of the annexe building.

The western portion of the existing curtilage area attached to no. 2 would be retained with that property. The existing pedestrian access arrangements serving nos. 1 and 2 would be retained and effectively 'extended' to serve the proposed additional dwelling.

No works to the building, either external or internal, are proposed. A separate application for listed building consent (ref. 21/2247/LBC) was submitted to the Council alongside the planning application. (Owing to its physical connection to the principal building it is regarded as forming part of the listed building, albeit that it is not known

when it was constructed). However, in the light of clarification received as to the absence of any planned works to the building in conjunction with the change of use, this application was not acted upon by the Council and returned to the applicant's agent.

The creation of the new entrance envisages the culverting and bridging of the roadside brook alongside the laying of a tarmac driveway, beyond which the proposed parking and turning areas would be surfaced in loose gravel. These have been laid out so as to avoid the loss of any significant trees within this part of the site. To this end, the application is accompanied by a method statement, incorporating a 'no dig' specification that includes details of measures for the construction of protective fencing together with the laying of geotextile matting across the width of the proposed access and a Geocell cellular confinement system, together with a tree protection plan.

The parking and turning facility would occupy much of the lower level of this part of the garden with a new path to be laid out at the top of the existing steps across the higher level to connect it to the prospective dwelling.

Considerations/Assessment

The proposal falls to be considered having regard to the following material issues that are discussed in turn.

Principle of Development

The site occupies a location within the countryside outside of the built-up area boundary of any town, village or other settlement as defined in the adopted Local Plan or Villages Plan. As such, the provisions of Strategy 7 (Development in the Countryside) of the former apply. These only permit development where in accordance with a specific local or neighbourhood plan policy and where it would not harm the area's distinctive landscape, amenity or environmental qualities.

In relation to proposals for the change of use or conversion of buildings in the countryside, those set out in Policy D8 (Re-Use of Rural Buildings Outside of Settlements) are especially relevant.

Principal among its criteria, in the context of the application proposal, is that which requires that the new use is "sympathetic to, and will enhance the rural setting and character of the building and surrounding area and is in a location which will not substantively add to the need to travel by car".

In addition, the policy requires that, for residential change of use/conversion proposals, it must be established, among other things, that conversion will enhance the setting of the building; for example, through removal of modern additions and materials or outside storage, or through landscaping, and that development is located close to a range of services and facilities to meet residents' everyday needs.

Regarding the first of these, as stated above no alterations to the building are intended, or indeed necessary, to facilitate its 'conversion' to independent residential use. Furthermore, there are no benefits to its setting that would result from the proposal

since it is almost entirely surrounded by the residential curtilage of no. 2 Lower Court Cottages and there is no requirement, or indeed any opportunity, to further enhance the setting through the removal of modern and/or unsightly additions, materials, etc., the discontinuation of any external storage use of the land or by other means. In addition, the presence of an informally landscaped garden around the building is such that, again, there is no realistic opportunity to improve the character of the setting through the introduction of any further landscaping.

The 'conversion' scheme would not therefore result in any enhancement of the setting of the building relative to the existing character of the same.

Moreover, and more importantly, the site occupies a location that could not reasonably be considered to be located close, or well-related in relation to, a sufficient range of services and facilities to meet prospective occupiers' everyday needs.

Fluxton is essentially a hamlet of no more than a residential character with no such facilities or services or any regular public transport service that would readily facilitate means of access to those elsewhere other than by private car. It is also not within easy, convenient or especially safe walking or cycling distance of either Tipton St. John/ Metcombe - which, in any event, are not recognised in the adopted local Plan as a settlement with strong sustainability credentials through being assigned a Built-up Area Boundary (BuAB) - or West Hill (which does have a BuAB) or Ottery St. Mary.

Furthermore, the roads connecting Fluxton with all three are all largely typical rural Devon lanes with no footways or street lighting and, although reasonably direct in providing links to Tipton St. John/Metcombe and Ottery St. Mary, is not so in relation to West Hill. In addition, although not necessarily generally subject to excessive traffic speeds on a regular basis, there are significant lengths of these roads where the national speed limit applies, adding to their lack of appeal or attractiveness as a walking or cycling route.

It is therefore considered that the proposal would also fail to meet this fundamental test of Policy D8 in relation to residential change of use/conversion proposals.

In so doing, it would also be contrary to the provisions of Local Plan Policy TC2 (Accessibility of New Development) that require that "new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need to travel by car".

These are largely complementary to those of Policy D8 cited above and also in line with relevant guidance contained within the National Planning Policy Framework (NPPF) which has a presumption in favour of sustainable development at its heart.

The proposal would also fail to meet with the Policy D8 requirement that conversion of the building should enhance its setting (for example, through the removal of modern extensions and materials or outside storage or through landscaping).

There are therefore no particular heritage gains to be derived from the proposal given that the building has been in lawful use for annexe purposes and is therefore in good repair/condition. Moreover, there is no evidence to suggest that it would be at any

significant risk of falling into disrepair were the proposal to be resisted. As such, any case that it would be more likely to be maintained as such in perpetuity as a result of approving the development would carry very little weight in its favour.

Although these considerations are thought to be of sufficient weight to justify opposing the principle of the proposed change in the use of the building, it is worth recording that, in relation to the other main generic criteria set out in Policy D8, it is thought that the proposed change of use may otherwise be regarded as being largely compliant.

The use of the building for independent residential purposes, coupled with the absence of any proposed alterations to it that form part of the scheme, would be such as to make it difficult to conclude that the use would not be sympathetic to the rural character and setting of the building or that the conversion scheme itself would be out of keeping with its surrounding or local building styles or materials.

Moreover, the building is structurally sound and readily capable of accommodating an ongoing residential use without the need for any enlargement, alteration or reconstruction while there are no alterations proposed that could otherwise fail to protect or enhance its character or that of its setting.

The absence of any agricultural use of the building at present is also a mitigating factor against any argument that a re-use would undermine the viability of any existing agricultural enterprise operating from the site (in any event there is none) or likely require the need for the construction of replacement buildings to serve such a purpose in the future.

The remaining criterion, namely that the development should avoid harm to the countryside by way of, among other things, traffic and/or parking, is considered in the next section of the report.

Local Plan policy aside, it is also considered that the proposal would be in line with the requirement, set out in paragraph 197 of the NPPF, that local planning authorities should, in relation to proposals affecting heritage assets, take account of the desirability of sustaining and enhancing their significance and out them to viable uses consistent with their conservation.

Although the building has been in use for residential occupancy purposes, unlike many other such listed or 'curtilage listed' buildings that are not put to viable use, there could be no guarantee that an ongoing annexe use would be maintained or that any income could be generated towards its ongoing maintenance and upkeep.

It is therefore felt that there are modest benefits in this regard that, when weighed with the absence of any impact upon the significance of the building (as forming part of a designated heritage asset) and the perceived absence of any wider material planning conflict for the reasons set out above, carry some weight in favour of an acceptance of the principle of the scheme. However, it is not thought that they in any way outweigh the fundamental conflict with Policies D8 and TC2 set out above.

The reference made by the ward member to provisions within the NPPF that enable the development of 'isolated' dwellings in the countryside in circumstances where,

among other things, the sub-division of existing residential properties is involved is duly acknowledged. However, there is case law from 2020 that provides significant clarification as to the circumstances when this can be applied. This established that the policy concession only applies to the sub-division of main dwellings themselves. It cannot be applied to 'sub-division' proposals where separate annexe or other outbuildings, such as in this case, are proposed to be converted to independent dwellings.

The pre-application advice to which the ward member refers pre-dated this judgment.

As such, it is not accepted that there is any alternative 'fallback' position in this case and therefore little weight can be given to the ward member's comments in this regard.

Other Issues

Although no material operations involving the conversion scheme for the building itself form part of the submitted proposals, the proposed formation of the new vehicular entrance and laying of the parking and turning facility within the lower portion of the existing curtilage area to its east would clearly amount to such operations with some attendant impact upon the character and appearance of the site and wider area as well as highway safety matters and, as such, demand consideration.

Having regard to the character/appearance issue first off, there is little doubt that the creation of the proposed access/entrance would represent a significant intervention in what currently bears the appearance of an established hedged frontage to the site, to the rear of the roadside brook.

However, the reality is that the depth and thickness of the 'hedge' is constrained by the presence of a vertical timber fence immediately behind it that appears, from within the site, to extend the entire length of the frontage.

Moreover, the length of this frontage (i.e. within the control of the applicants), at around 10 metres, is thought to be comparatively modest.

As such, and also taking into consideration the position of the frontage boundary within close proximity of a number of road frontage boundaries of other residential properties - along both sides of the highway - that are defined by walls and fences, many of which are breached by vehicular and pedestrian entrances, it is not considered that the extent of work that would be required in order to create the proposed entrance would materially adversely impact the rural character of either the site frontage itself or the wider hamlet to a degree that would justify support for the objection raised by the town council on this ground.

The position and alignment of the hedge and fence set back from the road, created by the intervening presence of the brook, allows for adequate visibility for drivers of emerging vehicles in both directions. It also enables sufficient forward visibility of emerging vehicles for drivers of vehicles on the road itself. As such, there is no requirement for any further operations, involving third party land beyond the application site, involving the formation of visibility splays, unlike many other situations within rural areas where potentially more intrusive and detrimental interventions are

necessary with consequentially greater harm to their character. By comparison, the level of intervention in the road frontage of the site in this case would be limited and, taken together with its position within the hamlet and its slightly more built-up character, less harmful.

Equally, subject to the tree and ground protection measures and 'no dig' construction methodology for construction that have been provided with the application being complied with in full to ensure no loss of any visually significant trees, it is not anticipated that the introduction of the proposed parking and turning facility would detract from the character or appearance of the site or surrounding area.

In terms of highway safety, no objections are raised to the access proposals by the County Highway Authority.

The juxtaposition of the building, at right angles to the principal dwelling, provides an obvious physical separation between the prospective garden area that would be attached to the dwelling nearer to the road and that to the west to be retained with no. 2 Lower Court Cottages. The independent use of both would be capable of being carried on without any mutually adverse or detrimental effect upon the living conditions enjoyed by the respective occupiers of both units; more particularly if an existing fence, gate and planting abutting the southern side of the application building were to be retained as a physical definition of the boundary between the two areas.

Furthermore, whilst the windows in the north elevation of the building would afford a direct and very close outlook upon the front gardens attached to both nos. 1 and 2, resulting in a spatial relationship that prima facie would not appear especially desirable in amenity terms, these are of less private character in any event. They accommodate the shared access path to both properties, with it passing directly in front of no. 1 whilst allowing for access to no. 2. Furthermore, both properties would - as alluded to above in relation to no. 2 above - retain the use of separate more private rear gardens from which greater amenity benefit would continue to be derived, irrespective of the acceptance or otherwise of the proposed development.

The town council's point regarding the absence of an application for listed building consent is not readily understood. In any event however, for the reasons set out at the outset of this report the submission of such an application has not been necessary.

Habitat Regulations Assessment and Appropriate Assessment

The nature of this application and its location close to the Pebblebed Heaths and their European Habitat designation 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 Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of the designation. 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.

CONCLUSION

The provisions of Policies D8 and TC2 of the adopted Local Plan are of particular relevance to the proposal and are, in this case, complementary to each other. The former requires, among other things, that new residential development is located close to a range of accessible services and facilities to meet residents' everyday needs while the latter stipulates that new development should be located so as to be accessible by pedestrians, cyclists and public transport and also well related to compatible land uses so as to minimise the need for car travel. It is considered that the proposal fails against these key criteria. The site occupies a comparatively remote rural location with poor pedestrian and cycle connectivity with other settlements. Furthermore, the bus service through the hamlet is infrequent.

The proposal would also fail when considered against another key criterion of Policy D8 owing to the absence of any enhancement to the setting of the building that would result from its 'conversion'; there being no works necessary owing to it already being in use for annexe purposes.

Although the nature of the objections raised by the town council are duly acknowledged, it is not agreed that the proposed hedge removal would result in material harm to the rural character or appearance of the lane or the wider hamlet as to justify opposition to the scheme on the basis of the extent of loss that would be incurred.

Equally, the provisions set out in the National Planning Policy Framework that permit the development of 'isolated' dwellings in the countryside through the sub-division of existing dwellings to which reference is made by the ward member are not considered applicable. Case law has established that 'sub-division' only relates to the principal dwelling and not to the separation of ancillary buildings as independent buildings. There is therefore no alternative 'fallback' position in this regard.

In conclusion therefore, having regard to the balance of the above material considerations it is considered that the proposed development would be unacceptable on the grounds of the unsustainable location of the site and therefore its conflict with Local Plan Policies D8 and TC2 and guidance set out in the NPPF.

RECOMMENDATIONS

1. That the Habitat Regulations Appropriate Assessment be adopted.
2. That the application be REFUSED for the following reason:
 1. The site is located outside of the built-up area boundary of any defined settlement or a strategic allocation within the adopted Local Plan and is, therefore, within the

open countryside where residential development is restricted. The proposal, by reason of its unsustainable location in the countryside, remote from essential services and facilities required for daily living, would result in an unsustainable form of development, with reliance upon the use of the motor vehicle to access the services, which would not be physically or functionally well related to the built form of any defined settlement. As such, the proposal would be contrary to the provisions of Strategy 7 (Development in the Countryside), Strategy 27 (Development at the Small Towns and Larger Villages) and Policies D8 (Re-use of Rural Buildings Outside of Settlements) and TC2 (Accessibility of New Development) of the East Devon Local Plan 2013-2031 and guidance within the National Planning Policy Framework (2021).

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 planning 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:

2021_901_01 Rev 0	Combined Plans	13.09.21
2021_901_01 Rev 0: Elevations	Combined Plans	14.09.21
2021_901_01 Rev 0	Location Plan	09.02.22
2021-901-01 rev 0	Tree Protection Plan	23.11.21
method statement for "no dig" parking area	General Correspondence	23.11.21

List of Background Papers

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