

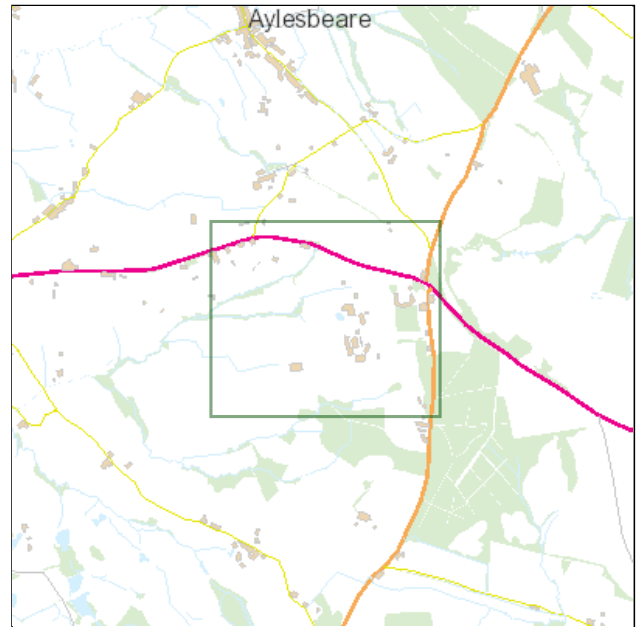
Ward Budleigh And Raleigh

Reference 21/1990/FUL

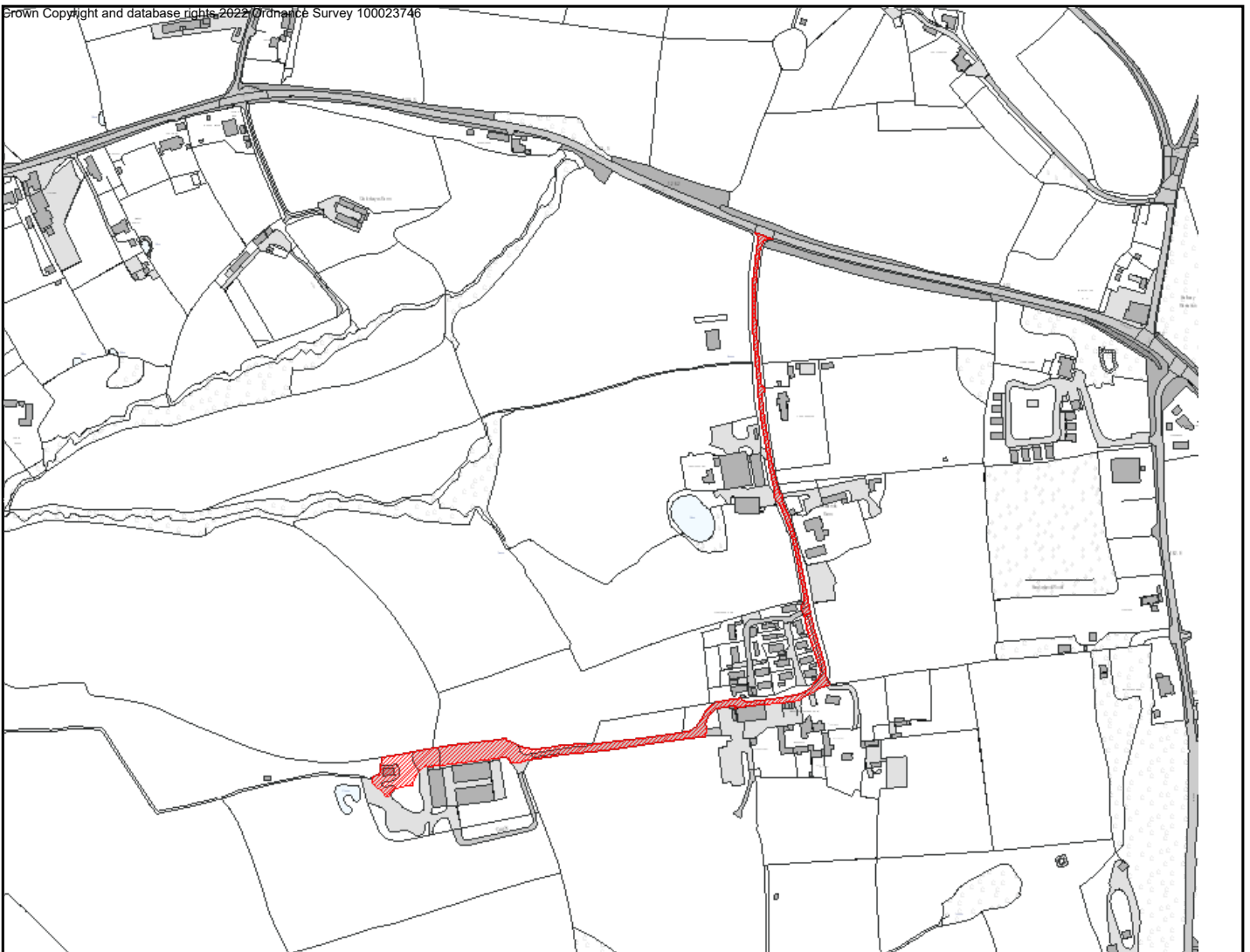
Applicant C.J. Wyatt & Son Richard Wyatt

Location Higher Hawkerland Farm Sidmouth Road
Aylesbeare Exeter EX5 2JW

Proposal Retention of 1-bed temporary mobile home
dwelling for farm worker (retrospective)



RECOMMENDATION: Refusal



		Committee Date: 20.12.2022
Budleigh And Raleigh (Colaton Raleigh)	21/1990/FUL	Target Date: 28.09.2021
Applicant:	Richard Wyatt (C.J. Wyatt & Son)	
Location:	Higher Hawkerland Farm Sidmouth Road	
Proposal:	Retention of 1-bed temporary mobile home dwelling for farm worker (retrospective)	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is brought before the Committee owing to a difference of opinion between officers and the commenting ward member.

The application seeks permission for the retention of an agricultural worker's mobile home that is stationed on land at Higher Hawkerland Farm. The farm is located to the south west of the staggered crossroads junction of the B3180 with the A3052 and accessed off of a private lane shared with a number of residential properties and the park home complex at Newlands Park.

More specifically, it is positioned to the west of a complex of comparatively modern former agricultural buildings to the west of the original farm group around the main dwelling. The majority of the floor space of the former is now let as a series of units used for storage and distribution (use class B8) purposes following a successful appeal, against the Council's refusal of retrospective planning permission, in 2021.

The main agricultural enterprise currently operated from the farm, from which the principal justification claimed for the ongoing need for the accommodation is derived, relates to the management of a flock of breeding ewes and their progeny together with the sale of the lambs. The applicants' intentions are to grow the ewe flock over the next few years.

A second enterprise operated from the holding is an agricultural contracting business and the provision of services to other farmers, including grass silage baling and wrapping, ploughing and the supply of tractors and trailers to support other contractors. The applicants also sell surplus forage.

The proposal has undergone the scrutiny of an independent agricultural consultant on behalf of the Council.

Whilst there is acceptance of a requirement, in functional terms, for an on-site presence in order to manage the breeding ewe flock, this is on a seasonal basis only and it is not considered, particularly in the absence of a detailed business plan, that a functional need for an agricultural worker to be living on site permanently has been adequately proven.

Furthermore, on the basis of the limited information that has been provided, it is not thought that the need for a full-time worker has been justified or, in the absence of any financial forecasts, that the future operational viability of the enterprise has been demonstrated.

Indeed, it is also considered that the letting of the floor space within the farm buildings for class B8 uses is not indicative of significant intent in terms of the re-establishment of farming activity from the holding. Moreover, it has long been accepted that security issues are not in themselves sufficient to demonstrate an essential functional requirement to live on the agricultural unit.

The same also largely applies in relation to agricultural contracting, which is also acknowledged as not requiring an open countryside location from which to operate.

The proposal therefore fails to overcome the strict policy tests that seek to protect the countryside for its intrinsic value and ensure that new dwellings are only provided in such locations when they are truly necessary and would meet with the established functional and financial tests.

It is therefore for this reason, notwithstanding the support offered by the parish council and ward member, that the proposal is recommended for refusal. A supplementary recommendation for the authorisation of the appropriate legal action to secure the cessation of the use of the land for the stationing of the mobile home and its removal is also put forward.

CONSULTATIONS

Local Consultations

Parish/Town Council

Colaton Raleigh Parish Council supports this application. Whilst we understand this is a short term requirement, it is considered essential for the sustainability of this rural business.

Budleigh and Raleigh - Cllr Alan Dent

I wish to register my support for this application.

The farm worker concerned is the farm owner's son who normally would be commuting to this site.

His role is to look after the flock of 150 sheep which is planned to grow to 350.

As the farm owner is waiting for a replacement hip he is physically unable to fulfil all the duties needed to support the lambing season which is happening now. Thus the son's role is crucial to the continued success of this enterprise. The hours of work span a 24 hour period as this is the nature of lambing - hence the need for an on-site presence at all times of the day and night.

Additionally, in order to support the income necessary to sustain the farm the farmer contracts out some of his larger equipment; e.g. tractors, which also need maintenance - again provided jointly by both the farmer and his son.

This is a short term requirement but under current circumstances essential for the continued success of this rural business.

Technical Consultations

None.

Other Representations

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

PLANNING HISTORY

Reference	Description	Decision	Date
20/2732/COU	Siting of a mobile home for a temporary period to provide accommodation for a farm worker (retrospective application)	Withdrawn	10.05.2021

20/1582/FUL	Change of use and subdivision of Barns 1 and 2 and part of Barn 3 from agricultural use to form 10no. storage and distribution units (Use Class B8), including external alterations to provide a roller shutter door and a by-pass door to each unit, provision of infill cladding to the existing hit & miss boarding to the external walls and provision of a gravel finish to the existing earth hardstanding to form Yard 1 and Yard 2 to be used for additional external storage associated with the units (retrospective)	Refusal Appeal allowed	19.03.2021 16.11.2021
-------------	---	-------------------------------	------------------------------

17/1456/PDQ	Prior approval for change of use of agricultural building to form 2no. dwellings (use class C3) and associated operational development under class Q (a) and (b).	PDQB Prior Approval granted	25.08.2017
-------------	---	--------------------------------	------------

13/0030/FUL	Proposed agricultural livestock building and access	Approval with conditions	09.04.2013
-------------	---	--------------------------	------------

13/0029/FUL	Proposed agricultural livestock building and access.	Approval with conditions	09.04.2013
-------------	--	--------------------------	------------

12/2347/FUL	Cattle building, dung store and access track	Approval with conditions	13.12.2012
-------------	--	--------------------------	------------

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

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)
EN14 (Control of Pollution)
EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)
EN22 (Surface Run-Off Implications of New Development)
H4 (Dwellings for Persons Employed in Rural Businesses)
TC2 (Accessibility of New Development)
Strategy 5B (Sustainable Transport)
TC7 (Adequacy of Road Network and Site Access)
TC9 (Parking Provision in New Development)

(There is no neighbourhood plan in force for Colaton Raleigh parish.)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

ANALYSIS

Site Location and Description

Higher Hawkerland Farm is located on the south side of the A3052 within the parish of Colaton Raleigh. It is accessed via a shared private road that extends south off of the A3052 around 350 metres west of the staggered crossroads junction with the B3180.

The road serves a total of 27 residential properties, 18 of which are in Newlands Park, a park home complex.

The main farmhouse and a number of adjacent dwellings formed from barn conversions are located towards the end of the road where it turns sharply to the west. Continuing west past these dwellings, an unmade track leads to three former agricultural buildings, the majority of the floor space of which was granted planning permission, retrospectively, in November 2021 for conversion to form 10 storage and distribution (Class B8) units (application 20/2582/FUL refers). This followed a successful appeal against the Council's refusal.

The mobile home to which this application relates is positioned to the west of these buildings.

Background

The farmed area is reported to be 115 acres with 25 acres being cut for hay/silage and the balance of 90 acres used as grazing land.

Mr. and Mrs. Wyatt. (Snr.) have farmed at Higher Hawkerland Farm for many years. Mr Laurence Wyatt (Snr.) became a partner with CJ and MD Wyatt in 1976 as part of the farm, which initially ran a dairy herd.

However, the dairy business ceased in 2001 due to the effects of tuberculosis, foot and mouth disease and milk prices.

Around ten years later they decided to return to farming and set up a beef rearing enterprise. To facilitate this, three buildings were granted planning permission in 2012 and 2013 (see Planning History above) and were completed in October 2013. They were immediately brought into use housing cattle. However, the business was not viable and the stock was sold in the summer of 2014.

In September 2015, a calf rearing contract with Blade Farming commenced and, later that year, 200 sheep were purchased to help with the businesses' cash flow. However, with the business struggling, a calf rearing contract with VB Farms began in June 2017. The business improved and the sheep flock was reduced. However, in April 2019 VB Farms gave notice that the contract was to end owing to a change in tuberculosis regulations. The last calves left the farm in August of that year.

Unable to secure a new contract or finance for a new farming enterprise, the applicants converted the farm buildings to storage units. Although a subsequent retrospective application for this development was refused by the Council, in March 2021, an appeal against this decision was successful.

Currently, 225 ewes are also presently lambed on the holding and, within the next three to five years, it is intended to potentially lamb up to 350 to 400 ewes.

Mr. Wyatt, the farm owner, is now stepping back from the running of the farm. His son Mr. Richard Wyatt has therefore taken on an increased responsibility and, around three years ago, became a partner. Most of the physical work around the farm is now required to be carried out by Mr. Wyatt (Jnr.) due to the deterioration of Mr. Wyatt's (Snr.) health.

It is understood that Mr. Wyatt (Jnr.) lives in the proposed temporary dwelling.

The business operated a calf rearing enterprise for many years from the buildings. However, this ceased in 2019, although the retained buildings are still set up for calf rearing, albeit at this time are used in part to support the sheep enterprise.

Proposed Development

Planning permission is sought retrospectively for the retention of the mobile home for occupation by a farm worker, namely Mr. Wyatt (Jnr.).

The application particulars include an agricultural appraisal (incorporated within a design and access statement) and business plan. These have been referred to an independent external consultant for scrutiny.

As referenced above, one of the two main enterprises currently operated from Higher Hawkerland Farm centres upon a flock of around 225 breeding ewes. These are lambed in three groups throughout December, January and February.

Ewes lambled in December are sold with their lambs in January and February. Lambs born in January and February are sold finished in early summer. Lambs are sent to market twice a week when they reach approximately five months old.

The intention is to increase sheep numbers to 300 ewes by 2024 and, as stated above, expand further beyond that.

The second main enterprise operated from the holding is an agricultural contracting business. This is carried out by members of the business and provides a valuable service, assisting other local farmers. Some of the services provided include grass silage baling and wrapping, provision of tractor and trailers to support other contractors and ploughing.

Other enterprises include selling surplus forage and the renting out of sheds (i.e. the storage and distribution units referred to above) on a commercial basis to other local businesses.

Considerations/Assessment

Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the adopted Local Plan permits new dwellings for rural workers in countryside locations subject to a number of criteria being satisfied. These are addressed in turn below and, where relevant, reference the advice provided by the independent consultant.

1. There is a proven and essential agricultural or forestry or rural business need for the occupier of the proposed dwelling to be housed permanently on the unit or in the specific rural location for functional reasons and the size of the proposed dwelling is commensurate with the scale of the established functional need. Where this need is unproven or a new business is being established a temporary dwelling (such as a mobile home) may be permitted to allow time to establish that there is a genuine functional and financial need for a permanent dwelling. A temporary dwelling will normally be permitted for a period of three years, subject to meeting relevant criteria detailed below

The overarching justification for the development set out in the design and access statement accompanying the application states that "the accommodation will be temporary in nature with the purpose of allowing the farm to regain a sound financial footing. Something that, going forward, would allow further investment in developing the farming activities and additionally to provide a long-term solution to the farm worker accommodation."

Within the statement, and during subsequent communications, the applicants' agents have identified and highlighted a number of reasons in favour of the need for a residential presence on site at Higher Hawkerland Farm in order to meet the essential and functional needs of the enterprises operated on the holding.

These can be summarised as follows:

- i) To attend to the welfare of the animals in order to meet the legal responsibilities as summarised in the five freedoms of animal welfare. At Higher Hawkerland Farm this includes the following:
 - a. Routine inspection of livestock and attending to their needs

- b. Checking water troughs
- c. Difficult lambing
- d. General lambing duties
- e. Feeding
- f. Bedding up
- g. Routine vet visits
- h. Monitoring Flystrike

ii) Security - There appears to be a high risk of sheep rustling as, in 2020, an adjoining farm had a flock stolen. The farm dogs are valuable and as dog theft is a common occurrence, the dogs cannot be left unattended. Additional on-site presence will increase security and deter thieves.

iii) Working sheep dogs - It is vital that the farm dogs are located within a secure residence within a close proximity to the sheep. This was made apparent during an unexpected torrential storm when, in order to maintain high standards of welfare and avoid loss of livestock, the sheep had to be rounded up. This was only possible due to the worker being within close proximity.

iv) Lambing season is a 24/7 operation and the unpredictability means a variety of issues can arise. Difficulties in lambing can include a lamb in breach, fluid in the lungs or a prolapsed ewe. These problems could result in loss of livestock if immediate attention is not received.

v) Monitoring of biosecurity would be significantly improved if the applicants were living on site.

vi) Routine checks of livestock are required from 05:00 and then periodically throughout the day until 00:00 - 01:00.

vii) The agricultural contracting enterprise means that expensive farm machinery is stored at Higher Hawkerland Farm, adjacent to the mobile home. Increased rates of rural theft means that the position of the dwelling will provide the essential security and deter thieves. Damage or theft of such machinery would cause a decrease to income and significantly affect the viability of the business.

viii) During harvest, from May to November, this machinery requires additional responsibilities which start from 05:00 and can continue until 23:00 - 00:00. Overnight repairs and maintenance may also be required in preparation for the day ahead.

ix) The farm is closely located to wedding venues and as a result firework displays are a frequent occurrence. These displays cause significant stress to the sheep and in the past has resulted in the sheep trampling and breaking through fences and suffocation. After the displays the sheep require checking immediately.

In consideration of these matters, it is accepted that for the proper functioning of the sheep enterprise operated at Higher Hawkerland Farm the essential and functional needs can only be fully met with an on-site presence.

However, this need is not all year round. Whilst, during the lambing periods of December through to February, it is essential for somebody to be available in close proximity to the sheep to support the essential needs of the livestock, whilst desirable it is not essential for somebody to be living on site for 12 months of the year.

The key test in this case is whether there is an essential need for a worker to live permanently at the farm. In this regard, while keeping livestock can be demanding, there is nothing in the supporting information to indicate that a permanent presence is required on site or that a worker could not live elsewhere and travel to the farm.

Indeed, if there is a particular need to live on site during the lambing season then permitted development rights already allow for a caravan to be stationed on the land during that season. Based on the evidence provided this should be sufficient to cover the essential need.

Likewise, a high workload and long hours are not in themselves reasons to live on site.

Equally, the security of machinery is not itself considered to represent sufficient justification for a permanent presence on site when other security measures should be put in place first. Indeed, in any event it has long been established that agricultural contracting operations do not need to be located within the open countryside and therefore rarely meet the policy justification for a rural worker's dwelling.

In the absence of convincing justification therefore, it is not accepted that an essential need to live permanently on the site has been demonstrated.

Reference is made in the independent external consultant's appraisal to consideration having been given by the applicants to the re-establishment of the calf rearing enterprise, with the ability to do so supported by the retention of the appropriate infrastructure. However, it has not been referred to within the agents' appraisal and no proposals demonstrating any such intent, backed up by a business plan (see next section of report), have been forthcoming.

2. In the case of a permanent dwelling, the rural business has been operational for a minimum of three years, it is demonstrable that it is commercially viable and has clear prospects for remaining so

The application is for the retention of a temporary dwelling and therefore this criterion is not relevant.

3. In the case of a temporary dwelling, a financial assessment, specifically in the form of a business plan setting out projected future operations, must demonstrate future operational viability

The business has been established at Higher Hawkerland Farm for many years and it has been advised that accounts, which are available to the Planning Authority on request, demonstrate that the business is financially viable.

However, given that the proposal relates to the provision of a temporary dwelling, it is important that there is evidence that the relevant enterprises are planned on a sound

financial basis. To date, and in spite of requests made by the Council's external consultant, financial forecasts that are referred to within the design and access statement/appraisal have not, at the time of writing, been provided.

At this stage therefore it cannot be assumed that the future operational viability of the business has been satisfactorily demonstrated and, as such, the proposal fails to meet with this criterion.

Whilst the farm has been established for a long time, the last twenty years show little evidence of commitment to farming the land or success at running a calf rearing enterprise. Even if the latter was due to reasons beyond the applicant's control, there is little evidence of any plan to establish a viable farming enterprise, particularly in light of the planning permission for the storage units.

In the absence of any plans for the business there can be no confidence that even in the short term a dwelling would be justified.

4. The qualifying test of occupancy must involve at least one occupant being employed full time in the relevant rural business. Two occupants in partnership can meet the condition so long as their joint weekly hours equate to a full working week

Standard man day calculations (SMDs) supplied by the applicants' agent do not demonstrate that the proposed business relates to a full-time worker. The appraisal confirms that the need of the whole farming operation equates to 263 SMDs, which is only 0.96 of a full time equivalent.

Furthermore, the figures provided by the applicants include operations that do not relate to the essential need activities of the sheep enterprise. The SMDs directly related to the livestock operations are only 153, which is only 0.56 of a full time equivalent.

This further reinforces the case that there is no requirement for a worker to live permanently on the site and, as such, this criterion of Policy H4 is not satisfied.

5. There are no buildings on the operational holding suitable for conversion to meet the residential need or existing dwellings available now or likely to be available within a nearby location or settlement. Sale within the last three years of any dwellings or buildings suitable for conversion will be taken into account and will count against 'need' in the assessment carried out

The space provided by the complex of farm buildings to the east of the mobile home is primarily rented out on a commercial basis and it is understood will remain so going forward. As referenced above, the majority of it is let for class B8 purposes with very little floor space retained for agricultural use.

Moreover, there are no other known buildings on the holding that are used for agricultural purposes. As such, it is not considered that the present situation represents strong evidence of an intention to continue to re-invest in the farming enterprise(s) going forward.

There are two residential dwellings on the farm. However, both are either fully occupied by long-term tenants or the owners of Higher Hawkerland Farm who are partners in the business.

A barn adjacent to the main farm buildings, which would potentially serve the functional need of the livestock enterprise operated on the holding, has previously had the benefit of prior approval for conversion into 2 dwellings (application 17/1456/PDQ). However, the approval has now expired without being implemented due to the lack of finances available to carry out the building works required to convert the building.

There are therefore buildings on the holding that are suitable for conversion and capable of meeting any need were a functional need and the financial test to be met. Although the applicants comments about the lack of finances to carry out the conversion are noted insufficient financial information has been submitted to demonstrate this and so it is considered that criterion 5 is not satisfied.

6. Any permission granted will be subject to an occupancy condition tying it to the relevant business on the proposed dwelling and where appropriate, any existing dwelling on the farm holding

The applicants accept that any permission granted for the retention of the mobile home as a rural workers dwelling will be subject to an occupancy condition.

In conclusion, the supporting information does not demonstrate that the farming activities justify a permanent presence on site or that the business is planned on a sound financial basis. Although the mobile home is well screened from public vantage points, and as such creates little impact upon the local landscape, this does not in itself justify its presence in the countryside contrary to the overarching strategy of the Local Plan which is to provide homes in sustainable locations and, in cases such as this, where there is a proven need for a rural worker.

Habitat Regulations Assessment and Appropriate Assessment

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

RECOMMENDATIONS

1. That the Habitat Regulations Appropriate Assessment be adopted.
2. That the application be REFUSED for the following reasons:
 1. On the basis of the information submitted, the Local Planning Authority is not satisfied that it has been adequately proven that there exists an essential agricultural need for the mobile home to facilitate the functional requirements of the agricultural enterprise that is operated from Higher Hawkerland Farm or that its future operational viability has been demonstrated. It has also not been demonstrated that existing buildings on the holding could not be utilised to meet any need for a dwelling. The proposal therefore represents unjustified residential development within the open countryside. As a consequence, it is contrary to the provisions of Strategy 7 (Development in the Countryside) and Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the adopted East Devon Local Plan 2013-2031 and the guidance set out in paragraph 80 of the National Planning Policy Framework (2021).
 2. In the absence of a proven essential agricultural need for the mobile home the development, by reason of its location in the open countryside, distanced from essential services and facilities required for daily living and where options for alternative modes of transport are extremely limited, constitutes an unsustainable form of development with reliance upon the use of the motor vehicle to access such services and facilities to meet the everyday needs of residents. As such, the proposal is be contrary to the provisions of Strategies 51B (Sustainable Transport) & 7 (Development in the Countryside) and Policy TC2 (Accessibility of New Development) of the adopted East Devon Local Plan 2013-2031 as well as guidance contained in the National Planning Policy Framework (2021).

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 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:

8081-100 A	Proposed Site Plan	30.07.21
8081-LP	Location Plan	30.07.21

List of Background Papers

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

