

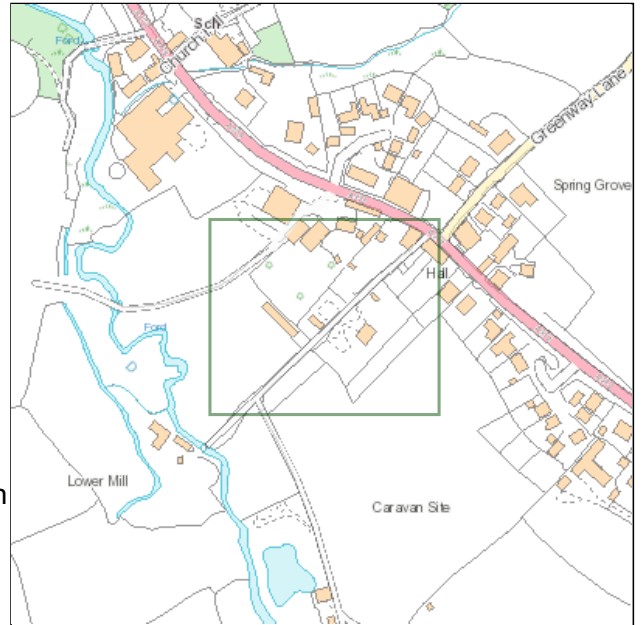
Ward Dunkeswell And Otterhead

Reference 22/2115/OUT

Applicant Mr and Mrs A Williams

Location The Store Mill Lane Awliscombe

Proposal Outline application with all matters reserved for the erection of a 2-bed bungalow and demolition of existing shed



RECOMMENDATION: Approval with conditions

Crown Copyright and database rights 2023 Ordnance Survey 100023746



| | | |
|--|---|-----------------------------------|
| | | Committee Date: 31.01.2022 |
| Dunkeswell And Otterhead (Awliscombe) | 22/2115/OUT | Target Date: 22.11.2022 |
| Applicant: | Mr and Mrs A Williams | |
| Location: | The Store Mill Lane | |
| Proposal: | Outline application with all matters reserved for the erection of a 2-bed bungalow and demolition of existing shed | |

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before the committee as the recommendation differs from that of a ward member and would be a departure from the Local Plan.

The application seeks outline planning permission for the construction of a two bedroomed bungalow with all matters reserved.

There is significant planning history associated with the site. In 2018 a prior approval application (18/1316/PDP) to convert the existing building into a dwelling under permitted development rights was approved. However this permission has now lapsed and the relevant permitted development rights withdrawn. An outline application for a bungalow was refused in 2021 as the site is located outside of any built up area boundary and there were no other policies which would support the proposal. A subsequent appeal upheld this decision.

However, there has been a material change as the Council can no longer demonstrate a five year housing land supply, therefore a tilted balance assessment is required. Under paragraph 11 of the NPPF this states that to refuse an application the adverse impacts would significantly and demonstrably outweigh the benefits.

In the appeal decision notice the inspector states that the proposal would conflict with Strategy 7 as there were no other policies which explicitly support the development. However, the inspector concluded that Awliscombe contains some services and that the proposal would not significantly conflict with Strategy 5B and Policy TC2 of the Development Plan.

With Strategy 7 not carrying full weight and the limited impact of Strategy 5B and Policy TC2 it turns to the benefits of the proposal as to whether this outweighs the harm.

The main benefit would be the cessation of a B8 facility in an area with narrow access and a junction with the A373. Regardless of the current state of the site, the use as a private dwelling is considered to have fewer trips than a B8 use would and it would no longer be used by larger vehicles including HGVs. This in hand with the poor junction visibility is considered to be a significant benefit to the current use of the site.

There are also minor benefits through the provision of a new dwelling which increases the vitality of the village, the construction phase would help to secure jobs involved in the works and there would be an aesthetic improvement to the site. Although these benefits are relatively minor it is considered that it tilts the balance in favour of granting permission.

Consequently, a recommendation of approval is made.

CONSULTATIONS

Local Consultations

Parish/Town Council

The Parish Council have always had reservations about this site in previous applications on the basis that the access onto the A373 is very dangerous and is particularly busy at peak times of the day. It is very difficult to have any vision of the road particularly in large vehicles and regardless of whether this is used for residential or storage traffic will be using the very narrow lane to the site. The Council believe that this is the main reason for the negative view of any further development although a dwelling would be preferential to the eyesore of scrap cars, caravans, tyres and rubbish which is now left at the site. The Parish Council stand by their original response and do not support the application on the grounds of access to the site.

Dunkeswell And Otterhead - Cllr David Key

I cannot support this application as it has already been refused by the planning committee and also by the inspector on appeal. I have visited the site on 3 occasions and have seen a very untidy site with still a very bad access onto the road in the village.

With the comments I have made the application should be refused.

Other Representations

Four letters of objection have been received. The letters object to the proposal on the following grounds:

- Water runs down Mill Lane and enters the river Wolf. During construction this lead to spoilage.

- Sewerage system is at capacity and has leaks.
- Application recently refused and reasons are relevant
- Narrow access of the site and poor junction with the A373.
- Discharge from soakaway would flood grazing fields
- The site is outside the Awliscombe Village Plan
- There are limited services within Awliscombe and occupants would be reliant on a car which is unsustainable.

Technical Consultations

Conservation

We do not wish to comment on this application. Case Officer to assess.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

EN5 (Wildlife Habitats and Features)

EN14 (Control of Pollution)

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)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Relevant Planning History

21/1479/OUT - Outline permission with all matters reserved for the erection of a bungalow. Application refused 15/10/2021. Appeal dismissed 01/06/2021

18/1316/PDP - Prior Approval for a Change of Use from storage (Class B8) to a use falling within Class C3 (dwelling houses) (Prior Notification). Prior approval granted 18/07/18.

18/0555/PDP - Prior approval for a change of use from storage and distribution (Class B8) to a use falling within Class C3 (Dwelling Houses) (Prior Notification). Prior approval refused 08/05/18.

Proposed Development

This application seeks outline planning permission for the construction of a 2-bed bungalow and demolition of existing shed. As this is an outline application with all matters reserved, no other details have been supplied with the application as these would be determined in a following reserved matters application.

Background

Prior approval for the change of use of the building to a dwelling was granted, in July 2018 (18/1316/PDP), under the temporary provisions of Class P of the General Permitted Development Order 2015 for the change of use of storage and distribution premises to dwellings. To implement this prior approval the development must have begun on or before the 18th July 2021. There is no evidence that any attempt has been made to implement the prior approval for the change of use or to seek a grant of planning permission for any associated alterations to the building ahead of the same. Additionally, Class P is now obsolete. Therefore a resubmission under this class is not an option.

A subsequent outline planning application was submitted in 2021 for the construction of a bungalow with all matters reserved. The site is not an allocated site and is located outside of any built up area boundaries as defined within the Local Plan or the Villages Plan. The site is considered to be remote from adequate services, facilities, employment and public transport needed for everyday living. Therefore the occupiers of the new dwelling would be reliant on transport through private motor vehicles.

Additionally, there was no justification for the dwelling as an agricultural or rural workers dwelling. Therefore, the proposal was considered to be contrary to Strategies 7, 5B and Policy TC2 of the East Devon Local Plan.

Furthermore, due to the expiration of the prior approval, it was not considered that the proposal would have a realistic or meaningful fallback position which could override the conflict identified with the local plan should planning permission be refused. Consequently the application was refused.

An appeal against this refusal was made, and later dismissed. The appeal decision notice agreed with the position that the site was contrary to Strategy 7 of the development plan and no other material considerations would justify a departure from the development plan.

Site Location and Description

The site, which is approximately 0.07 hectares in area, houses a detached single storey building, oblong on plan form with gable ends and oriented 'end on' to Mill Lane, and associated land. Open at the northern end, its remaining three walls comprise a mix of exposed blockwork under corrugated metal sheeting with the latter also forming a shallow pitched roof.

It is located approximately 100 metres to the south west of the junction with the A373 along which the majority of development within Awliscombe is set out. Mill Lane itself is essentially a cul de sac, off which there is access, beyond the site, to Marles Farm and Lower Mill only.

ANALYSIS

Considerations/Assessment

Principle of Development against the Development Plan

In regards to assessment against the development plan, the analysis remains the same as the previous application. The relevant parts of the report are below:

The site occupies a location within the countryside outside of the Built-up Area Boundary of any settlement as defined in either the adopted Local Plan or the Villages Plan. It is also located in an area where there is no neighbourhood plan in force.

Strategy 7 (Development in the Countryside) of the Local Plan only permits development in the countryside where it is in accordance with a specific Local or Neighbourhood Plan policy and where it would not result in harm to the area's distinctive landscape, amenity and environmental qualities.

However, it is not considered that there are any policy provisions elsewhere within the Local Plan that allow for the residential development of the site.

Awliscombe is not one of the small towns or larger villages listed in Strategy 27 (Development at the Small Towns and Larger Villages) that are considered to offer a range of accessible services and facilities, including reasonable public transport, to meet residents' everyday needs and which are provided with Built-up Area Boundaries via the adopted Villages Plan.

Furthermore, the proposal in this case is not being actively promoted as a community-led development that would, in a local context, promote the objectives of sustainable development through, for example, the community land trust model of delivery that is also facilitated under the provisions of Strategy 27.

Equally, whilst the provisions of Local Plan Policy H4 (Dwellings for Persons Employed in Rural Businesses) permit dwellings in the countryside for new agricultural or forestry workers or persons employed in rural businesses or activities, subject to various criteria being satisfied in full, the development to which the application relates is not being offered as such a form of development or justified under this policy.

There are no other strategies or policies set out in the Local Plan that would permit unrestricted new build open market housing development of any scale in this location.

On the face of it, therefore, the proposal must be regarded as being contrary to the overarching spatial development approach set out in Strategy 1 (Spatial Strategy for Development in East Devon) relating to the location of new housing development and, as such, considered to be unacceptable in principle.

The scheme would also result in the provision of a dwelling in an unsustainable location where it would not be readily accessible by public transport, given the infrequent nature of bus services through Awliscombe, or by cycle or on foot. Furthermore, it would not be well related to a sufficient range of everyday services and

facilities, such, as places of employment, shopping or leisure facilities, so as to minimise the need to travel by private car. The village itself offers none of these, with Honiton being the nearest settlement to provide such a range. However, the town centre is around 3 km. from the site and, although the A373 does benefit from lengths of footway connecting the village with the small group of residential properties at Hillcrest and Sunnyside, there are no further such connections to Honiton. Indeed, even in the event that there were, the distance involved is prohibitive to access on foot or, realistically, by cycle.

The development would not therefore be located where it would encourage and allow for efficient, safe and accessible means of transport with overall low environmental impact in line with the provisions of Strategy 5B (Sustainable Transport) or Policy TC2 (Accessibility of New Development) of the Local Plan.

The applicants maintain that there would be a significant benefit from the development in the form of likely reduced associated vehicle movements when compared with the lawful B8 use of the building and site which, given the substandard visibility at the junction of Mill Lane with the A373, should weigh in favour of acceptance.

However, while this may be the case, it is not considered that it outweighs the fundamental policy objection to the principle of a dwelling in this location having regard to the various factors set out above. Indeed, there are likely to be many examples of non-residential buildings in similar locations in relation to villages where the argument put forward by the applicants could be repeated. An accumulation of permissions for such development would contradict the strategic objectives and settlement hierarchy of the development plan.

Given these circumstances, it is not thought that any favourable consideration can be given to the principle of the proposed development in this case.

Tilted balance

Despite the clear lack of policy support from the development plan, the council cannot demonstrate a five year land supply. This means that the policies for the delivery of residential dwellings across the district are out of date. Although this does not mean that the policies of the Local Plan are irrelevant, it means that the tilted balance needs to be applied as per paragraph 11 of the NPPF.

Paragraph 11 of the NPPF states that:

Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

As the planning policies are out of date point (d) of the above is relevant. In regards to i the site is not located in a protected area which would provide a clear reason for refusing permission, therefore ii is engaged and the harm of the proposal must demonstrably outweigh the benefits of the proposal.

The previous application for outline permission for a dwelling was refused on the grounds that it was contrary to the development plan in regards to Strategy 7 in that there is no explicit support for the proposal which is the requirement for development in the countryside under Strategy 7.

The subsequent appeal agreed with this decision however, the appeal did not find that the proposal would be entirely contrary to Strategy 5B or Policy TC2. It was considered that, although the proposal site would be outside the main village, the site would be served by a number of facilities including: a community hall, pub, primary school, and church within walking distance. However, there are no food shops or medical services and limited employment opportunities within the village and any future occupiers would be likely to need to travel via private motor vehicle given the infrequent existing public transport services. The inspector however noted the B8 use of the site and concluded that the number of trips by non-sustainable means of transport associated with the B8 use would be significantly increased. As a result it was concluded that the conflict with Strategy 5B and Policy TC2 would be “very limited”.

At the time of the application and following the appeal the Council could demonstrate a five year land supply and the policies within the development plan gained full weight. This is no longer the case and in particular Strategy 7 no longer carries full weight. In accordance with Para 11 of the NPPF there needs to be a clear reason for the refusal of planning permission.

As the conflict with Strategy 5B and Policy TC2 was considered to be limited in the appeal; potential benefits could now outweigh the harm identified with the conflicts of these policies.

The site currently has a use class of B8 this is not disputed and is demonstrated through the previous Class P Prior Approvals application. Although the building is not in current use, and has not been used for this purpose for some time, it could be used for storage or distribution at a later date and this would not be in the control of the council.

In regards to this use, comments provided in 18/1316/PDP from the Highways Authority stated that the conversion of the building to a dwelling would be an improvement to highway safety. This is because the use of the site as a dwelling would have less vehicle movements, would not be used by HGVs and the existing visibility of the junction at Mill Lane with the A373 is substandard. Although no new comments

have been received from the highway authority for this application, it is considered that these observations are still relevant as the access has not changed. This is considered to be a key benefit of the proposal which weighs heavily in its favour.

In addition to the above there are other benefits from the proposal as stated below.

Paragraph 79 of the NPPF promotes sustainable development in rural areas by increasing their vitality. Although there would be a loss of an employment facility, it is not currently in use and is located in an undesirable location. Therefore it is considered that the provision of a single dwelling would contribute to the vitality of Awliscombe although this contribution would be limited as it is only a single dwelling.

There would be some minor economic benefits in the provision of employment through the construction phase. Although this weighs in its favour, the limited scale of the proposal would mean that this is a very minor benefit.

There would also be some benefit to the aesthetics of the site as it is currently used for storage of materials and the building is in poor condition. It is considered that a new dwelling would provide an enhanced appearance to the site and its immediate surroundings.

On balance in terms of the principle, it is considered that there is some conflict with the development plan in regards to the location of the site being outside of the built up area boundary and the services are limited. However, as the council can no longer demonstrate a five year land supply a tilted balance must be applied and the harm of the proposal must demonstrably outweigh the benefits of the proposal. In this case given the historic use of the site, its appearance, highway safety issues and the comments of the inspector on the previous appeal it is not considered that the harm would demonstrably outweigh the benefits as described above.

Other Matters

Comments from third parties have raised a number of other concerns with the proposal. These will be assessed below.

In regards to surface water flooding, the site is not located within the Environment Agency flood zones 2 or 3 and the site is not an area of critical drainage. Therefore it is not considered that the site itself poses a flooding risk. It is noted that there is historic flooding in the floodplains at the nearby watercourse. Therefore a condition should be attached to any permission which requires the submission of details of the drainage scheme so that it does not contribute to the flooding risk.

Comments have also been made about the sewerage system and its capacity. No comments have been received from South West Water providing objection to the proposal. It is considered that a single dwelling would not generate a significant amount of sewage that could be significantly detrimental to the existing foul drainage system.

Comments have been made about the access which is narrow and has poor visibility to the A373. Although these comments are noted, it has previously been established

that the use of the site as a dwelling would have fewer vehicle movements in smaller vehicles and would therefore be a betterment to the existing use of the site.

Additionally comments have stated that the site is located outside of the Awliscombe village plan and that there are limited services within Awliscombe. These comments are also noted however as assessed above it is considered that with the limited weight of existing policies, the benefits of the proposal outweigh these drawbacks.

Conclusion

Although the site is located outside any built up area boundary, the council cannot demonstrate a five year land supply and the policies which restrict residential development outside of built up area boundaries no longer have full weight. The proposed dwelling was found to cause limited harm in an earlier application and limited conflict with Strategy 5B and Policy TC2. The benefits of the proposal are considered to outweigh the harm of the dwelling's location, therefore a recommendation of approval is made.

RECOMMENDATION

APPROVE subject to the following conditions:

1. Approval of the details of the layout, scale and appearance of the building, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
(Reason - The application is in outline with one or more matters reserved.)
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
(Reason - To comply with section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)
3. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
4. Details of the surface water drainage shall have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The scheme shall be carried out in accordance with the approved details before the dwelling on the site is occupied. (Reason - To avoid pollution of the environment and flooding during and after construction in accordance with the requirements of Policy EN14 - Control of Pollution of the East Devon Local Plan 2013-2031.)

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.

Plans relating to this application:

| | |
|---------------|----------|
| Location Plan | 27.09.22 |
|---------------|----------|

List of Background Papers

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