

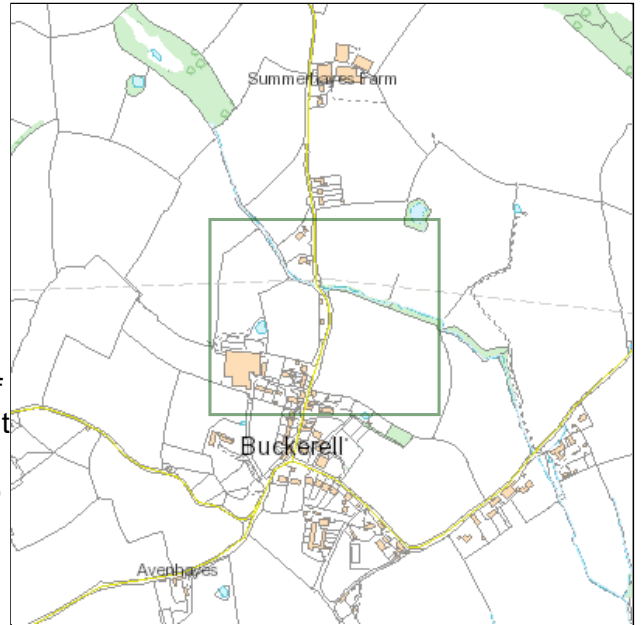
**Ward** Feniton

**Reference** 22/2653/VAR

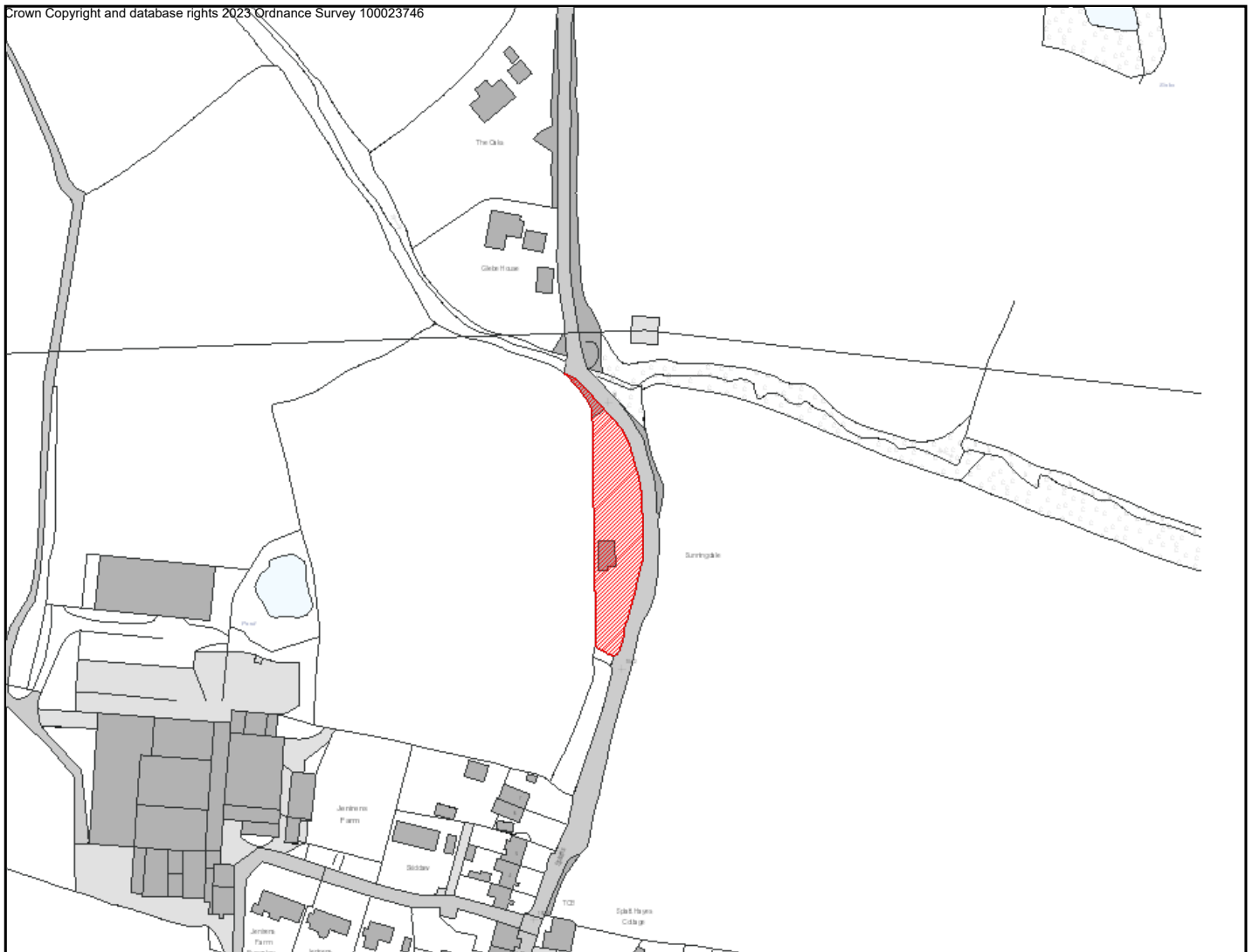
**Applicant** Raymond Borkowski

**Location** Sunningdale Buckerell Honiton EX14 3ER

**Proposal** Variation of Condition No. 2 (Approved plans) of planning permission 21/0039/FUL (Replacement of existing dwelling and garage/workshop with new dwelling and garage with storage space) to allow revisions to internal layout.



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 28.03.2023</b>	
<b>Feniton (Buckerell)</b>	<b>22/2653/VAR</b>	<b>Target</b>	<b>Date:</b>
		<b>25.01.2023</b>	
<b>Applicant:</b>	<b>Raymond Borkowski</b>		
<b>Location:</b>	<b>Sunningdale Buckerell</b>		
<b>Proposal:</b>	<b>Variation of Condition No. 2 (Approved plans) of planning permission 21/0039/FUL (Replacement of existing dwelling and garage/workshop with new dwelling and garage with storage space) to allow revisions to internal layout.</b>		

**RECOMMENDATION: Retrospective Approval (conditions)**

### **EXECUTIVE SUMMARY**

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

**Sunningdale is a two bedroom 'Woolaway' bungalow that occupies the more elevated part of an elongated roadside plot within open countryside to the north of Buckerell. The site also originally housed a detached garage/workshop building on lower ground around 35 metres to the north of the main dwelling. There are existing vehicular accesses into the site at both the northern and southern ends of the plot.**

**Planning permission was granted in July 2021 (under application ref. 21/0039) for the replacement of the existing main dwelling with a log cabin style equivalent, also two bedroom, in part on the same footprint as the present building but mainly to its south, together with the replacement of the outbuilding with a triple garage with storage space above.**

**Construction of the replacement dwelling has since commenced and progressed substantially. However, the development has not been carried out in accordance in accordance with the approved plans whilst a number of both pre-commencement and other conditions, the latter with triggers for the submission of details for approval that have now passed, have not been discharged.**

**The principal changes to the approved scheme involve the re-siting of the building around 4 metres to the south of its approved position and the excavation of the site to facilitate the provision of a larger store at basement level with more headroom. There are also other modifications to its external appearance, including an increased number of roof lights, changes to the configuration of door**

and window openings, the omission of a gable feature and a change of roof finish from natural slate to grey tile effect roof sheeting.

The concerns raised by the parish council and ward member regarding both the retrospective nature of the application and the nature of the proposed revisions are recognised. However, it remains necessary to consider the modifications on their merits.

In this regard, it is not considered that the development, both as carried out and proposed, would be unduly harmful to the character or appearance of the surrounding area when considered against the details of the original approved scheme.

A grant of permission is therefore recommended subject to a number of the same conditions as those attached to the original planning permission (ref. 21/0039/FUL) insofar as they remain relevant to the development as constructed and amended where necessary to reflect the present circumstances.

## **CONSULTATIONS**

### **Local Consultations**

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

The Parish Council of Buckerell discussed this latest application at their meeting of 18th January 2023. The Parish Council now strongly objects to this revised application which has completely changed the outcomes set out in the original plans.

The construction is now 4 metres to the south of the original plans, making it much more conspicuous from the eastern aspect. The building is very much closer to the highway than originally envisaged in the first application. It also appears to be closer than shown on these revised plans. The building is taller than originally authorised, standing on a plinth that has increased the height by a metre. It is this increased prominence which has led to negative comments being received from local residents.

Work undertaken at the northern end of the plot of land is considerably different from that which was first approved. On the latest drawings it states that this area will be the subject of a separate application, but effectively the work already started is unauthorised. Parish Councillors feel that this requires the attention of planners before any further work is carried out.

In light of the above, Parish Councillors would respectfully suggest that this application goes to the full Planning Committee and is subject to a site visit.

#### **Feniton - Cllr Alasdair Bruce**

I would like to add my weight to the comments sent in by Buckerell Parish Council regarding the above application. I would also agree that we cannot have a situation, so ably demonstrated by this application, whereby someone overtly outsteps their approved planning conditions, and is then able to send in a revised application whilst carrying on building. Almost everyone I know, including myself that has had anything

to do with planning, sticks to the letter of any conditions. To allow this application to pass will send a clear message that planning enforcement in East Devon is weak and you can get away with whatever you like. The planning officer states that there are no grounds to object to this application. The question then needs to be asked why didn't the applicant put in for this in the first place, unless they thought it would not pass. This kind of flagrant abuse of the planning system must not be allowed to go unchallenged and request that some form of action is taken.

### **Technical Consultations**

None.

### **Other Representations**

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

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
21/0039/FUL	Replacement of existing dwelling and garage/workshop with new dwelling and garage with storage space	Approval with conditions	16.07.2021

### **POLICIES**

#### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 5B (Sustainable Transport)  
 Strategy 7 (Development in the Countryside)  
 Strategy 46 (Landscape Conservation and Enhancement and AONBs)  
 Strategy 50 (Infrastructure Delivery)  
 D1 (Design and Local Distinctiveness)  
 D2 (Landscape Requirements)  
 D3 (Trees and Development Sites)  
 EN5 (Wildlife Habitats and Features)  
 EN14 (Control of Pollution)  
 EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)  
 EN22 (Surface Run-Off Implications of New Development)  
 H6 (Replacement of Existing Dwellings in the Countryside)  
 TC2 (Accessibility of New Development)  
 TC7 (Adequacy of Road Network and Site Access)  
 TC9 (Parking Provision in New Development)

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

#### Government Planning Documents

NPPF (National Planning Policy Framework 2021)

## **ANALYSIS**

### **Site Location and Description**

Sunningdale is a detached two bedroom 'Woolaway' bungalow that occupies a central position within an elongated plot, approximately 0.145 hectares in area, located within open countryside around 100 metres to the north of the nearest residential property on the edge of Buckerell. The site is situated on the western side of a Class C road that connects the village with the A373 where it ascends toward Hembury Fort to the north west of Awliscombe.

The building is of gabled form with precast sectional concrete walls under a profiled concrete tile roof pitched roof. It has approximate dimensions of 12.2 metres by 6.8 metres with a roof ridge height of 5.4 metres.

It includes a flat-roofed single storey element housing a porch and a sun room, which bears the appearance of a later addition, attached to the southern end gable of the main part of the dwelling.

The main property occupies almost the highest part of the plot, which falls away to the north.

The site is accessed via an entrance off of a field access at its southern end while there is a second entrance at the northern end.

Neither the site nor the surrounding area are the subject of any designations or other material constraints.

### **Background**

Planning permission was granted in July 2021 (application 21/0039/FUL refers), following consideration at Planning Committee, for the demolition of the bungalow, as well as an outbuilding to the north, and the construction in their place of a larger two bedroom dwelling and ancillary outbuilding comprising a triple garage with storage space within the roof above.

The approved replacement dwelling is principally of log cabin appearance sat on a stone-clad plinth set into the slope of the site with the main living accommodation on one floor level and a log store beneath its northern end, partially supporting a recessed raised terrace. Its position is to the immediate south of the present bungalow in closer proximity to the southern entrance to the site, thereby enabling the applicant to continue to live in the existing property whilst the replacement is under construction. However, the northern part of the development, as approved, occupies the footprint of a flat-roofed porch and sun room attached to the southern gable end wall of the present bungalow.

Inclusive of the recessed terrace, the approved build measures 20.8 metres in length by a width of 9 metres. At the northern end of the building, the ground to roof ridge

height is 6.47 metres while at the southern end it is 5.1 metres. It is of essentially gabled form oriented north/south on the plot.

### Proposed Development

Construction work on the approved replacement dwelling has commenced and, at the time of the officer site visit, the walls and roof of the building had been substantially completed.

However, the development has not been undertaken in accordance with the approved details. Furthermore, a number of the conditions attached to the original planning permission, both pre-commencement and with foundation level construction as a trigger, have not been discharged.

The current application, submitted under section 73 of the Town and Country Planning Act, therefore seeks a variation to the approved plans attached to the 2021 permission. This seeks to both regularise the development as constructed to date and undertake further revisions to the original permitted scheme.

These are listed as follows:

1. Repositioning of the building around 4 metres to the south of the position originally approved.
2. Excavation of levels to enable the building to be dug into the site by a further metre at the northern end so as to facilitate the creation of a larger usable storage area beneath the northern end of the dwelling. The overall height of the southern end has also been increased by 0.3 metres by the same means. Two windows and a door to serve the storage area have been installed in the east and north elevations respectively.
3. Reconfiguration of windows and doors in the east (roadside) and west elevations.
4. Installation of two further roof lights in the east elevation and three additional roof lights in the west elevation.
5. Omission of a gable feature from the east elevation.
6. A slight reduction in the pitch of the roof to the effect that its height above the 'original' ground floor level would be 0.7 metres less than as approved.
7. A change of roof finish from natural slate to graphite grey tile effect roofing sheets.

The length and width of the building are unaltered from those originally approved.

The replacement triple garage with storage space, also approved under planning permission 21/0039/FUL, has also not been constructed in accordance with the approved details.

However, the nature of the departures from the approved details is such that it is not considered that they can be considered as part of this 'section 73' application (i.e. as a variation to the original plans).

The submission of an entirely fresh application to regularise the modifications to this element of the scheme has therefore been requested from the applicant but, at the time of writing, remains awaited.

### Considerations/Assessment

The principal issue that is material to consideration of the proposal is the effect of the various modifications to the original approved scheme upon the character and appearance of both the build itself and the surrounding area.

The legitimate concern expressed by the parish council and ward member regarding the ongoing continuation of operations on site having failed to secure the discharge of relevant conditions attached to the original permission, and pending determination of this 'variation' application, is duly noted. It is also agreed that it represents a less than satisfactory situation.

However, it is the case that any development that is continued ahead of any decision being issued is carried on at the applicant's own risk. It is also at the discretion of the Local Planning Authority to take action, as appropriate, to address any breach of planning control should it consider it expedient to do so.

In addition, and notwithstanding the current position set out above, it remains necessary to consider the modifications to the scheme on their specific merits.

In this regard, the starting point for assessment is clearly the approved scheme for the replacement dwelling to which planning permission 21/0039/FUL relates.

As such, in this context it is not thought that the impact of the revisions, either individually or cumulatively, is, or would be, so substantial as to justify opposing them.

While there is no question that the re-siting of the building 4 metres to the south of its position as originally approved would, owing to the tapering configuration of this end of the site, bring it nearer to its roadside boundary, it is not thought that this in itself results in the development causing materially greater harm to the character or appearance of the immediate surrounding area. Furthermore, in combination with the issues relating to the height and levels of the building discussed in the next section of the report, it is not accepted that it has significantly increased its visual prominence locally to an extent that objection on such grounds could reasonably be supported.

In terms of the matters relating to height, it is again not in dispute that the height of the building in itself has been increased relative to that of the scheme as originally approved. However, the additional height has been gained from excavation of the site, in order to accommodate the increase so as to facilitate the provision of the larger and higher basement level storage area, as opposed to it being raised in height off of the original site level. The roof ridge height, relative to this level, has not been increased. Indeed, with the slight reduction in roof pitch proposed, the overall height, taken from the original site level, would be slightly reduced.

It is not therefore the case that the development has assumed an increased prominence through being increased in height. However, the increased depth and height of the store, which has contributed to the greater height of the build in itself, is currently apparent in some views into the site that are available from the adjacent road. This is owing to a reduction in the height of the hedge and the previously reported felling of trees within it that has, to some extent, exposed the site to more open view from closer range.

However, the extent of these views, and therefore the impact of the building at its reduced site level, is essentially limited to a short length of the highway where it runs immediately past the building. Beyond this point, the road falls away to the north and the combination of this localised topography and the boundary hedge serves to largely otherwise screen the lowest part of the development from view.

The remaining revisions to the external appearance of the development, comprising the increase in the number of roof lights and the modest reconfiguration of the windows and doors, are largely cosmetic in nature and it is not thought that these would materially affect it in a manner that would justify objection.

Overall therefore, it is not accepted that the modifications to the building are, or would be, as significant as is suggested by the parish council's consultation response or that the resulting development, relative to the original approved scheme, would result in materially greater harm to the character or appearance of either the building itself or the surrounding area.

The reference made by the parish council to 'negative comments having been received from local residents' has not been reflected in representations relating to the proposals having been received from interested third parties insofar as there have been none.

As such, whilst the circumstances that have prompted the submission of the application are unfortunate, and there is empathy with the parish council and ward member concerns regarding these, it is not felt that there would be substantive grounds for objection to the development as constructed and proposed in terms of its progression to completion.

Finally, as stated above, the departures from the approved plans that are evident from the construction of the replacement outbuilding to the north of the main original and replacement dwellings are being addressed separately since it is thought that these are not capable of being considered via the 'section 73' application route and therefore would need to be the subject of an entirely fresh permission.

The grant of a fresh permission is therefore recommended subject to a number of the conditions attached to the original permission (ref. 21/0039/FUL) that remain relevant, amended accordingly to reflect both the partly retrospective nature of the application and the fact that previous triggers for the submission of details that have since passed with the ongoing progression of the development.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. 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.)
2. Notwithstanding the submitted details, within one month of the date of the permission hereby granted a schedule of materials and finishes, and, where so



required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roof of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

(Reason - To ensure that the materials are sympathetic to the character and appearance of the area in accordance with Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031.)

3. Within one month of the date of the permission hereby granted, a scheme of hard and soft landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed and hard surfaced. It shall specifically incorporate proposals for tree and hedge planting along the site boundary with the adjacent highway. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after its approval in writing by the Local Planning Authority, unless any alternative phasing of the landscaping is agreed in writing by the Local Planning Authority, and the landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

(Reason - 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 D2 (Landscape Requirements) of the adopted East Devon Local Plan 2013-2031.)

4. Within one month of the date of the permission hereby granted, details of the means of disposal of foul and surface water drainage from the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details before the replacement dwelling hereby approved is occupied.

(Reason - In the interests of avoiding pollution of the environment in accordance with the requirements of Policy EN14 (Control of Pollution) of the adopted East Devon Local Plan 2013-2031.)

5. Within one month of first occupation of the replacement dwelling hereby permitted, the existing dwelling within the application site shall be demolished, all materials permanently removed from the site and the land reinstated so as to form part of the curtilage of the replacement dwelling.

(Reason - Permission is only granted for the development hereby permitted on the basis that it is a replacement for the existing dwelling on the site, on account of its location within the open countryside where additional new build residential development is strictly controlled, and therefore to ensure that only one dwelling remains within the site in perpetuity in accordance with Strategy 7 (Development in the Countryside) of the adopted East Devon Local Plan 2013-2031.)

## 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 works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

Plans relating to this application:

SB-005 D	Proposed Floor Plans	30.11.22
SB-006 D	Proposed Elevation	30.11.22
SB-010 F	Proposed Site Plan	30.11.22

List of Background Papers

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