

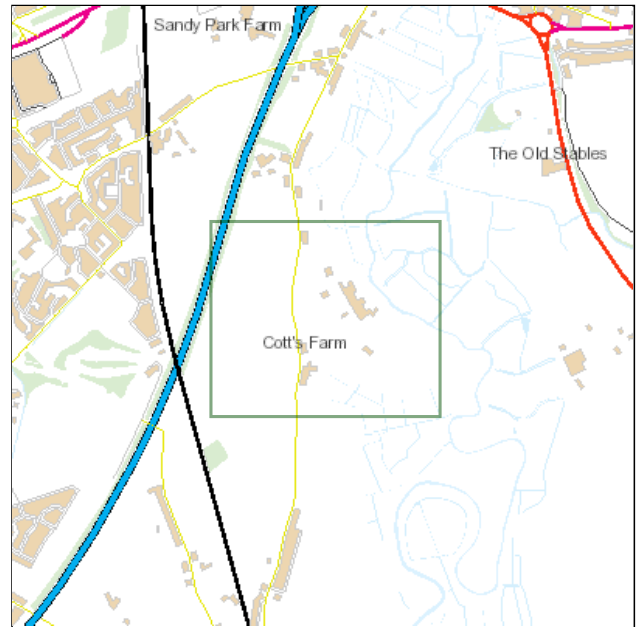
Ward Clyst Valley

Reference 22/1886/FUL

Applicant Mr A Cork

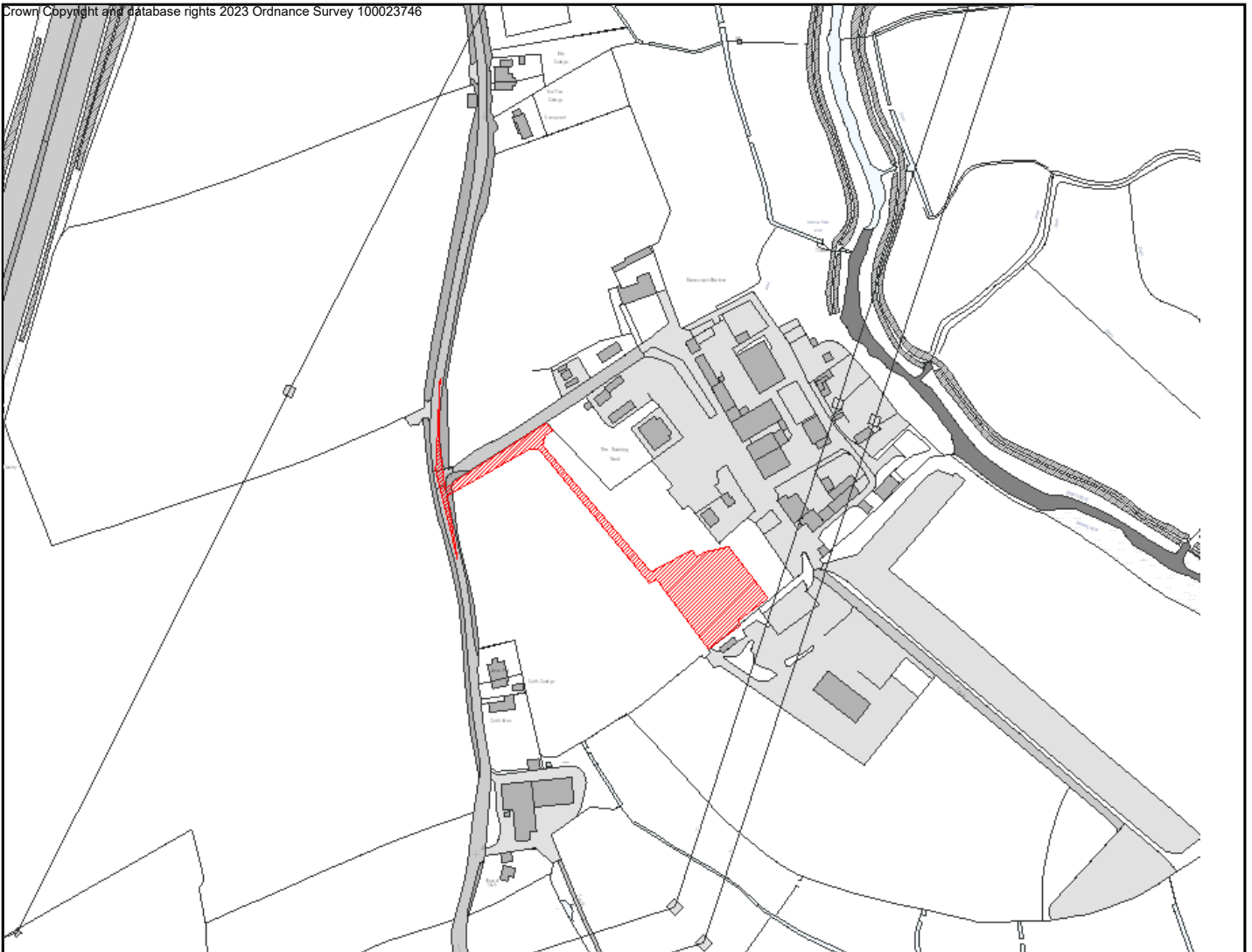
Location Unit 60D, Stock Exe Ltd Newcourt Barton Clyst Road Topsham Exeter EX3 0DB

Proposal Change of use of land from agricultural to a B8 storage yard, to include the erection of a building and siting of three containers, for the extension of an existing yard area used in conjunction with a builders merchant.



RECOMMENDATION: Refusal

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		Committee Date: 28 March 2023
Clyst Valley (Clyst St George)	22/1886/FUL	Target Date: 18.10.2022
Applicant:	Mr A Cork	
Location:	Unit 60D, Stock Exe Ltd Newcourt Barton	
Proposal:	Retrospective permission for the change of use of land from agricultural to a B8 storage yard, to include the erection of a building and siting of three containers, for the extension of an existing yard area used in conjunction with a builders merchant.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is before Members because the views of the Ward Member are contrary to Officers.

Planning permission is sought retrospectively for the change of use of land to a B8 storage use, including the hardsurfacing of the site, construction of an open sided storage building and the siting of three shipping containers. The site lies on the western edge of the Newcourt Barton Business Park.

It is recognised that the proposal allows the relocation and expansion of an existing business, and provides a modest addition to employment, which weighs in its favour. It is also recognised that there are no objections raised in terms of impact on highway safety, flood risk, visual impact or residential amenity.

However the site lies outside of any Built-up Area Boundary or defined area for development, and is specifically contrary to Policy CSG19 - Business Development, of the recently adopted Clyst St George Neighbourhood Plan. It would lead to the further expansion of the business park into the countryside.

Whilst finely balanced it is considered that the proposal would conflict with an up-to-date development plan and that the proposed development would fail to result in a sustainable form of development.

CONSULTATIONS

Local Consultations

Clyst Valley - Cllr Mike Howe

Support the application - Having now read the flood risk assessment and taking all other issues into account I will support this application as it is a simple expansion of a full employment site.

Parish/Town Council

If this application expands the Business Park's area it is in contravention of Clyst St George's N.P,(and we therefore object)

Policy 19;

Business development on the business parks listed below (and identified on Map 9) will be supported provided it is in keeping with those uses and business activity already on the site and does not lead to the outward expansion of the site.

If Officers are clear that no expansion is planned, then the Parish Council would support this application.

Technical Consultations

County Highway Authority

Observations:

The proposal of B8 storage on this plot size, should not lead to an unacceptable increase in trip generation, with this type of storage, the visit frequency is usually limited.

Additionally, this type of land use and vehicle use along Clyst Road already has an existing precedent.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

Environmental Health

I have considered the application and do not anticipate any environmental health concerns.

Environment Agency

Thank you for your email. I can confirm that we have reviewed this proposal and have no comments.

The proposal is an inappropriate consultation given that that it is a change of use in Flood Zone 2, National Flood Risk Standing Advice (NFRSA) should be applied and the use is changing to a less vulnerable class.

DCC Historic Environment Officer (Further Information)

I refer to the above application and my previous comments. The Historic Environment Team has been informed that the proposed development has been previously disturbed by the dumping of spoil from the nearby developments. This may have disturbed the ground so that geophysical survey techniques for identifying archaeological deposits are unlikely to work, and the ground itself may have been disturbed by the dumping of soil and its subsequent removal which may have disturbed any archaeological deposits present. As such, I would like to withdraw the Historic Environment Team's previous objection and advise - for the reasons set out in my previous response - that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 205 of the National Planning Policy Framework (2021) and Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.'

Reason

'To ensure, in accordance with Policy EN6 (Nationally and Locally Important Archaeological Sites) of the East Devon Local Plan and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

In addition, the Historic Environment Team would advise that the following condition is applied to ensure that the required post-excavation works are undertaken and completed to an agreed timeframe:

'The development shall not be brought into its intended use until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.'

Reason

'To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.'

I would envisage a suitable programme of work as taking the form of a staged programme of archaeological works, commencing with the excavation of a series of evaluative trenches to determine the presence and significance of any heritage assets with archaeological interest that will be affected by the development. Based on the results of this initial stage of works the requirement and scope of any further archaeological mitigation can be determined and implemented either in advance of or during construction works. This archaeological mitigation work may take the form of full area excavation in advance of groundworks or the monitoring and recording of groundworks associated with the construction of the proposed development to allow for the identification, investigation and recording of any exposed archaeological or artefactual deposits. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Devon County Archaeologist

The proposed development lies in an area of high archaeological potential in proximity to sites of prehistoric or Romano-British activity identified through aerial photography taking the form of ditched enclosures. The Historic Environment Record indicates the presence of four such sites within 400m and to the west of the application area, and it is possible that the proposed development site contains archaeological and artefactual deposits associated with the known prehistoric activity in the surrounding landscape. However, the information submitted in support of this application is not sufficient to enable an understanding of the significance of the heritage assets within the application area or of the impact of the proposed development upon these heritage assets.

Given the high potential for survival and significance of below ground archaeological deposits associated with the known prehistoric activity in the surrounding landscape and the absence of sufficient archaeological information, the Historic Environment Team objects to this application. If further information on the impact of the development upon the archaeological resource is not submitted in support of this application then I would recommend the refusal of the application. The requirement for this information is in accordance with East Devon Local Plan Policies EN7 - Proposals Affecting Sites Which May Potentially be of Archaeological Importance - and EN8 - Significance of Heritage Assets and their Setting, and paragraphs 194 and 195 of the National Planning Policy Framework (2021).

The additional information required to be provided by the applicant would be the results of:

- i) An archaeological geophysical survey followed by
- ii) A programme of intrusive archaeological field evaluation.

The results of these investigations will enable the presence and significance of any heritage assets within the proposed development area to be understood as well as the potential impact of the development upon them, and enable an informed and reasonable planning decision to be made by your Authority.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Other Representations

None received

PLANNING HISTORY

Newcourt Barton Business Park and units within it have been the subject of various planning applications over the years, however the most relevant of this was granted under reference 17/2357/MFUL which granted consent for the Business Park, widening of access, creation of visibility splays and passing bay on the drive. In recent times a number of open storage compounds and various portacabins and other units have appeared which do not appear to have consent and are being investigated.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 4 (Balanced Communities)

Strategy 5 (Environment)

Strategy 7 (Development in the Countryside)

Strategy 8 (Development in Green Wedges)

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN13 (Development on High Quality Agricultural Land)

EN14 (Control of Pollution)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-off Implications of New Development)

E4 (Rural Diversification)

E7 (Extensions to Existing Employment Sites)

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

Clyst St George Neighbourhood Plan

CSG1 – Sustainable Development

CSG3 – Flood Risk

CSG4 - Areas of Ecological Significance

CSG5 – Development Outside the Settlement Areas

CSG9 - Design Matters

CSG17 - Parking Standards for New Development

CSG19 – Business Development

Site Location and Description

The application site comprises an area of land adjacent to the western edge of Newcourt Barton Business Park which is located to the east of Clyst Road. The business park is located within the open countryside around 1500m to the south of junction 30 (Sandygate) of the M5.

Proposed Development

Planning permission is sought retrospectively for the change of use of agricultural land to a B8 storage yard, including the hardsurfacing of the site, the construction of an open sided storage building and siting of three containers. The use of the site facilitates the extension of the existing trade builders merchants operating from the adjacent site and is used for open and covered storage and parking spaces.

Consent is sought to retain fencing to enclose the yard with a new hedge surrounding this providing additional screening.

ANALYSIS

The main issues to be considered in the determination of this application are considered to relate to:

- Policy context and principle of the development
- Economic benefit
- Landscape and visual impact
- Flooding and drainage
- Highway safety

- Noise and pollution
- Loss of high quality agricultural land
- Residential impact
- Planning balance

Policy Context

The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The Council formally adopted the East Devon Local Plan 2013-2031 on 28th January 2016, and together with the more recently adopted Clyst St George Neighbourhood Plan (July 2018) form the development plan and the policies contained within these are those against which applications are being determined and carry full weight.

Principle of Development

In planning terms the application site lies in the countryside, defined as being all those parts of the plan area that are outside Built-up Area Boundaries and outside of site specific allocations shown on the Proposals Map. Strategy 7 (Development in the Countryside) of the East Devon Local Plan 2013-2031 states that development will be strictly controlled and will only be permitted where it is in accordance with a specific local or neighbourhood plan policy that explicitly permits such development and where it would not harm the landscape, amenity or environmental qualities within which it is located.

Strategy 8 (Development in Green Wedges) states that development will not normally be permitted if it would add to sporadic or isolated development or could lead to or encourage settlement coalescence.

Policy E7 (Extensions to Existing Employment Sites) permits the small scale expansion of business and employment sites outside of Built-up Area Boundaries where it is clear that a business or employment site or estate is at or near full capacity and where there are no highway, residential, ecological or visual impact. This policy is considered to provide some support for the expansion of the business park, and the owner of the business park has stated that there is no other land available. However the Local Plan was adopted in 2016, and whilst it is in the process of being reviewed, the emerging Local Plan has yet to go through examination and cannot therefore be afforded any material weight.

The Clyst St George Neighbourhood Plan (NP) was adopted in July 2018, and provides more up-to date consideration of the local planning policies although this is now 5 years old, however it is considered to carry significant weight. Policy CSG5 - Development Outside the Settlement Area, states that development proposals on land outside the confines of the settlement areas will usually be supported if they are necessary for the purpose of agriculture, or farm diversification or outdoor recreation, without harming the countryside. The proposal fails to satisfy this policy, being neither agricultural, a farm diversification project or outdoor recreation.

Policy CSG19 - Business Development recognises and supports employment initiatives on existing business parks, including Newcourt Barton, where it is in keeping with those uses and business activity on the site and does not lead to the outward expansion of the site. The physical impact of the proposed development is further considered below, however whilst adjacent to the existing site, it extends beyond the boundary of the business park identified in the NP into an area of open agricultural land, and is therefore not considered to be supported by this policy.

Paragraph 84 states that Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Whilst the site could be considered under Local Plan policy E7 to be an extension of the existing business park which is at capacity, there is conflict with the more recently adopted Neighbourhood Plan which identifies the boundary of the business park and which specifically excludes development beyond this. This is considered to be a determining factor in the assessment of the current application and one which carries significant weight.

Economic Benefits

The development of the site facilitates the expansion of an existing business on the business park. It is understood that the expansion creates a further 3 full time equivalent jobs in addition to the previous 3 employees and 2 drivers. As such there is some, albeit limited, additional employment benefit arising from the development.

Landscape and Visual Impact

There are no landscape or other protective designations relating to the site which is set back from the road, and generally well screened from public views. Where the development can be seen it is set within the context of the existing business park and agricultural buildings. It would, however add to the development on the western side of the business park, extending towards the highway and public viewpoints of the development. As such it would increase the visual impact of the business and of the business park and would contribute to the creeping nature of development in the locality.

The introduction of the security fencing, albeit that a new hedge is proposed to screen it would also add to the visibility of the development.

Flooding and Drainage

Part of the site is located within an area identified on the strategic map as flood zone 2 and the application is accompanied by a site specific flood risk assessment.

Detailed modelling of the site has been undertaken to assess the impact of the development on current and future flood risk.

The site falls within the area covered by the Clyst St Mary Tidal 2019 Model which provides the most recent analysis of the flood risks in the area. Site specific information was requested and provided by the Environment Agency. As a result of this it is concluded that the actual application site can be identified as being located within an area of flood zone 1 in respect of fluvial and tidal flooding and at low risk for other anticipated forms of flood risk.

As such, and being identified as a 'less vulnerable' form of development, it is not considered that the sequential test for the development is required and that the proposed development is acceptable from a flood risk perspective.

Highway safety

The volumes of traffic arising from the proposed use and additional vehicle movements likely to arise are not considered to be such that there would be any material increase in the intensity of the vehicle activity within the business park, although there would be additional movements associated with the use.

The visibility at the junction of the business park and Clyst Road has been improved in recent years, as has the driveway within the site, and any additional vehicular movements on the wider road network are considered to be capable of being accommodated without detriment to highway safety.

Noise and Pollution

No industrial processes or other noise generating uses are proposed, and no concerns have been raised by the Councils Environmental Health Officer. Additional vehicular movements and the use of fork lifts or other lifting equipment may generate some additional noise, however given the scale of the operations, and the proximity of residential properties, with the nearest being over 100m from the site, it is not anticipated that the use would give rise to any nuisance.

Loss of High Quality Agricultural Land

The application site is land designated as grade 1 agricultural land. Policy E13 of the Local plan states that

The best and most versatile agricultural land (Grades 1, 2 and 3a) will be protected from development not associated with agriculture or forestry. Planning permission for development affecting such land will only be granted exceptionally if there is an overriding need for the development and either:

1. Sufficient land of a lower grade (Grades 3b, 4 and 5) is unavailable or available lower grade land has an environmental value recognised by a statutory wildlife, historic, landscape or archaeological designation and outweighs the agricultural considerations. Or
2. The benefits of the development justify the loss of high quality agricultural land.

The designation of this land is part of a wider area which includes the farmland to the north and south. The site is constrained to the east by the business park and to the west by an existing track which leads to larger farm buildings located to south of the site. There is also an outdoor gym located to the north, further constraining the land. Whilst the application site could be used for agricultural purposes, its size and the practicalities of doing so would not appear to be of such benefit that its loss to agriculture could reasonably be a grounds for objection.

Residential Impact

As stated above the nearest residential properties are located in excess of 100m from the site. Given this and the nature of the proposed use, it is not considered that the development would have any material or detrimental impact on the amenity of nearby residents.

Planning Balance

The supporting information states that the proposal facilitates the expansion of the neighbouring local business and creates a further 3 full time equivalent jobs which weigh in favour of the proposal. It is also recognised that there are no objections raised in terms of impact on highway safety, flood risk, or residential amenity.

However the site lies outside of any built up area boundary or defined area for development, it is located in a relatively remote location with no public transport options, and with limited walking or cycling opportunities at present. Given the proposed nature of the use as a builders merchants, it is considered that effectively all of the activity associated with any expansion of the business will be undertaken by private vehicles. The business also adds to the increasingly unsightly industrial appearance to the site. This is considered to weigh heavily against the proposed development, and would result in further unsustainable development in the open countryside.

The development is specifically contrary to Policy CSG19 - Business Development of the adopted Clyst St George Neighbourhood Plan resulting in the outward expansion of an existing business park into the open countryside.

Whilst finely balanced it is considered that the proposal would conflict with an up-to-date development plan such that the principle of the proposed development is considered to be unacceptable, and harm has been identified to arise from the development. In the absence of any other material considerations that would justify a departure from policy, the proposed development would fail to result in a sustainable form of development and causes some harm to the rural character of the area. As such the application is recommended for refusal.

RECOMMENDATION

REFUSE for the following reasons:

The application site falls outside of the Built-up Area Boundary of any defined settlement or a Strategic allocation within the Adopted Local Plan or Neighbourhood

Plan and is therefore within the countryside where new development is restricted. As no other policy facilitates the proposal this would result in the creation of new development in conflict with the spatial approach for new development. It would result in the creation of new development situated in the open countryside which would be unsustainable and detrimental to the rural character of the area. Consequently, the proposal would be contrary to the provisions of Strategy 6 (Development within Built-Up Area Boundaries) and Strategy 7 (Development in the Countryside) of the East Devon Local Plan 2013 - 2031, and Policies CSG5 - Development Outside the Settlement Area and CSG19 - Business Development of the Clyst St George Neighbourhood Plan.

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 requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

Plans relating to this application:

PP 01	Proposed Plans	Combined	23.08.22
PP 02 REV D	Block Plan		23.08.22
PP 03 REV C	Proposed Plans	Combined	23.08.22

List of Background Papers

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