

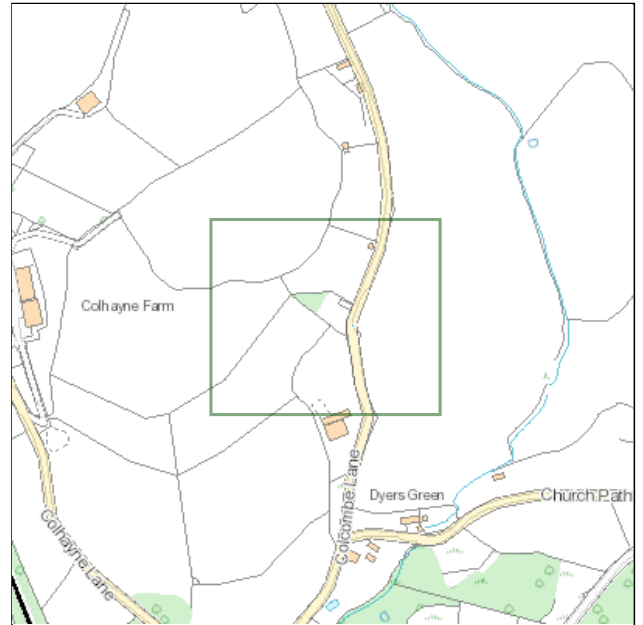
Ward Newbridges

Reference 22/1377/FUL

Applicant Mr & Mrs D Branker

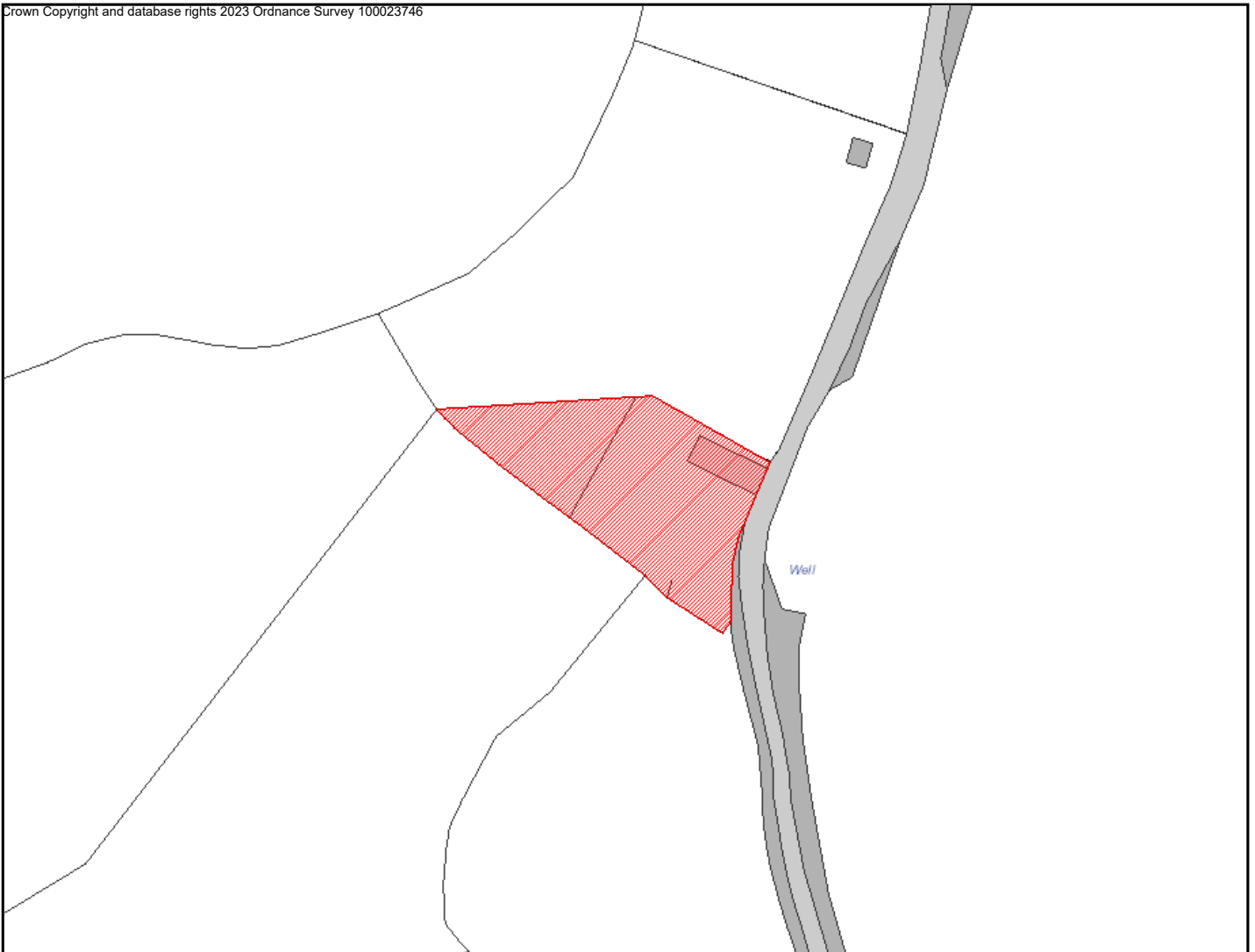
Location Site Of Spillers Cottage Shute EX13 7QG

Proposal Construction of a dwelling (retrospective) for occupation while the dwelling permitted under reference 21/0535/VAR is constructed, after which the first dwelling will be demolished



RECOMMENDATION: Refusal

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		Committee Date: 25.04.2023
Newbridges (Shute)	22/1377/FUL	Target Date: 06.09.2022
Applicant:	Mr & Mrs D Branker	
Location:	Site Of Spillers Cottage Shute	
Proposal:	Construction of a dwelling (retrospective) for occupation while the dwelling permitted under reference 21/0535/VAR is constructed, after which the first dwelling will be demolished	

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EXECUTIVE SUMMARY

This application is before the Planning Committee because the recommendation is contrary to the view of the Ward Member.

The application has been submitted retrospectively and is for a small dwelling for occupation while a consented dwelling is constructed elsewhere on the site. Local Plan policy does not support the provision of new dwellings in this location (the previously consented dwelling benefits from a fallback position) and therefore the proposal is unacceptable in principle.

In addition, the site is in the East Devon AONB and by virtue of its uncharacteristic design and its prominent and elevated position next to the lane, it fails to conserve or enhance the landscape and scenic beauty of the area.

In mitigation the applicant has stated that he intends to remove the building when the main house is ready to be occupied but the building is of permanent construction. Planning Practice Guidance states that a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness.

In the absence of policy support or any overriding reason for taking a decision other than in accordance with the development plan, the proposal is recommended for refusal.

CONSULTATIONS

Local Consultations

Newbridges - Cllr Iain Chubb

I would like to write a note of support for this temporary dwelling that is necessary for the applicant to live in during the rebuild of Spillers Cottage, a mobile home would be the normal choice of temporary dwelling; however, due to the width of the lanes surrounding the site this makes the temporary cabin the only option. It will obviously provide accommodation and security for the site, which is not overlooked by any neighbouring properties. The building has been constructed with recycled materials and now the timber has been stained in a dark colour it blends in well in its setting.

Parish/Town Council

24/08/2022 - The Council discussed this at their last meeting and raised no objections. They would ask that a definite time limit for the temporary siting is set.

09/03/2023 - The Parish Council discussed this application at their meeting of March 8th and have no objections...

Other Representations

None received.

Technical Consultations

EDDC Trees

I have reviewed the submitted tree protection information and the photos of the site, however there is no tree survey information or assessment to comply with BS5837. It appears as though significant disturbance of the ground within the RPAs of the retained trees has occurred, this may be having a detrimental impact on the health and condition of the trees on the site, apparently oak and ash. Therefore effective implementation of the TP plan may not be feasible.

Can the applicant provide a survey & report by a suitably qualified arboriculturist to assess the potential damage/disturbance to the roots of the retained trees, to say what effect this may be having on the trees together and put forward suitable remedial measures to try and ensure that the trees can be retained as long term features of the site and of the local landscape?

PLANNING HISTORY

Reference	Description	Decision	Date
91/P0654	House	Approval with conditions	24.06.1991

19/1787/CPE	The excavation, laying out and back filling of an inspection chamber and associated pipework ready to connect to a new septic tank for the foul sewage system of the new house granted permission reference 7/87/91/P0654/00119 on 24 June 1991 and validly implementing that the permission so that it remains extant	CPE Refused Allowed at appeal	14.10.2019
21/0535/VAR	Variation of condition 2 of permission 91/P0654 (House) to allow for revised design of dwelling	Approval with conditions	20.04.2021

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Site Location and Description

The site is located to the west of Shute and about 430 metres south of the A35. It is accessed via a narrow lane next to Deep Cut Farm. It has no near neighbours but there are scattered dwellings and farms in the surrounding countryside, which is within the East Devon AONB.

The steeply sloping site lies on the west side of the lane on a hillside with an outlook to the east and south. There are views back towards the site from the A35 and from Pacehayne Lane near Moultons.

At the front of the site in the centre there is an open parking area. On the north side of this on higher ground is the site of the dwelling that was permitted under reference 21/0535/VAR. On the south side of the site is the building that is the subject of this

application. The plot rises steeply to the west meeting a small area of woodland. There are also some trees near the southern boundary of the site.

ANALYSIS

This application is for a dwelling to be occupied for a temporary period while the main dwelling is constructed in accordance with the 2021 permission. Construction of the temporary dwelling was at an advanced stage when the site was visited in September 2022 and was finished and occupied when it was visited again in March 2023. No significant progress has been made on construction of the main dwelling.

The temporary dwelling is of timber construction and rests on a dozen block built columns of differing heights to accommodate the slope of the land. The exterior is clad in timber and is fitted with glazed windows and doors salvaged from other sites. Likewise the interior has in part be fitted out with salvaged fittings in an effort to save money.

One of the reasons why the applicant constructed the temporary accommodation is save money. He is building the main dwelling himself and the financing arrangements for self-build construction do not extend to covering the costs of renting a property elsewhere. Living on the site would also assist with security and would be convenient while the applicant is constructing the main house.

A further reason is that having made enquiries about moving a mobile home onto the site he was advised that the access was too narrow to accommodate the large delivery vehicle.

To further assist with financing the new build, it is the applicant's intention that once he occupies the main dwelling he will sell the temporary building. Based on his research he anticipates that someone will be willing to purchase the building, dismantle it and re-erect it elsewhere. Failing that he believes that the materials used in its construction could be sold or used in the construction of the main dwelling. He does not intend to retain the building as additional accommodation but may seek permission for a garage on roughly the same part of the site in future.

The main issues in this case are whether this is a suitable location for a dwelling in principle and the effect on the landscape and scenic beauty of the AONB.

Location

Owing to its position outside of any settlement, the provision of a dwelling in this location is not in accordance with the Local Plan and is not supported by any policies in the NPPF. Whilst paragraph 80 of the NPPF makes provision for dwellings in isolated locations, none of the circumstances listed in that paragraph apply to this proposal. Notwithstanding that, if material considerations justify it, a decision can be made that is not in accordance with the development plan.

(For the avoidance of doubt, the recent permission for a dwelling on the north side of the site was granted on the basis that there was a fallback position established by

work commencing on the construction of the dwelling permitted in 1991. The temporary dwelling does not benefit from any similar fallback.)

If it were determined that justification existed for retaining the dwelling for a temporary period then to avoid conflict with the spatial strategy of the Local Plan it would be necessary to impose a condition requiring the removal of the building after a fixed period. However, the Planning Practice Guidance in Paragraph: 014 Reference ID: 21a-014-20140306 states:

A condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness.

Notwithstanding the applicant's plans to dismantle the building for materials or to sell the component parts for re-erection elsewhere, it is clearly of a construction that is permanent in nature. Moreover, it is not capable of being moved from the site (for example, by being craned onto a lorry) without being dismantled.

Whilst there may be a case for some form of temporary accommodation (such as a touring caravan), the permanent nature of the building that has been constructed conflicts with the Local Plan and guidance in the PPG. It is therefore concluded that the site is not a suitable location for a dwelling and retention of the building is not justified.

AONB

The site is steeply sloping and some excavation has been carried out to create a space for the temporary dwelling and space to use as a parking area and work compound. The dwelling has been constructed at the lowest point of the site but owing to the slope of the land it is elevated above the adjacent road and prominently positioned.

Whilst the building is prominent from the lane adjacent to the site, longer range views are filtered to some degree by trees and hedgerows. From the A35 the building can be seen from about 400-500m away but it is small in scale and fairly recessive in the landscape owing to the use of dark timber cladding. Similarly, from the relatively lightly used Pacehayne Lane there are views through field gates but, again, the building is not especially prominent, particularly when compared to the white rendered dwellings visible in the same view.

Whilst the effect on distant views may be limited, in terms of design, siting and relationship to the natural slope of the land, the building is not characteristic of the area. Nor does it reflect the architecture of the approved dwelling or others in the locality. In an AONB great weight must be given to conserving and enhancing landscape and scenic beauty and in this instance the building does not achieve either objective.

The building has been constructed in close proximity to some trees and there is insufficient information about the impact the development may have had on their roots. The potential impact on the long term health of the trees is therefore uncertain

and this adds weight to concerns about the effect on the landscape and scenic beauty of the AONB.

In view of these considerations it is concluded that the proposal does not conserve or enhance the AONB.

Conclusion

The proposed dwelling is not supported by any policies in the development plan and approval on a temporary basis would be contrary to advice in the PPG owing to the permanent nature of the construction. In addition, by virtue of its uncharacteristic design and its prominent and elevated position next to the lane, it fails to conserve or enhance the landscape and scenic beauty of the AONB. For this reason the 'tilted balance' set out in paragraph 11 of the NPPF is not engaged.

It is appreciated that the applicant has explored other options, including renting elsewhere, moving a mobile home onto the site or living in a touring caravan on the site but the reasons for dismissing those options are largely personal (other than the mobile home which was not practicable). It is also appreciated that it is the applicant's stated intention to remove the building from the site when the main dwelling is ready to be occupied but that does not justify the permanent nature of the construction.

In the absence of policy support or any overriding reason for taking a decision other than in accordance with the development plan, the proposal is recommended for refusal.

RECOMMENDATION

REFUSE for the following reasons:

1. The dwelling is located in the countryside outside of any settlement and remote from services and amenities. In addition, by virtue of its uncharacteristic design and its prominent and elevated position next to the lane, the building fails to conserve or enhance the landscape and scenic beauty of the East Devon Area of Outstanding Natural Beauty within which it is located. The proposal is therefore contrary to Strategies 7 - Development in the Countryside and 46 - Landscape Conservation and Enhancement and AONBs and Policies D1 - Design and Local Distinctiveness and D3 - Trees and Development Sites of the 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 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:

20/15/04 A	Proposed Combined Plans	08.09.22
20/15/05	Tree Protection Plan	08.09.22
Arboricultural	Method Statement	08.09.22

List of Background Papers

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