

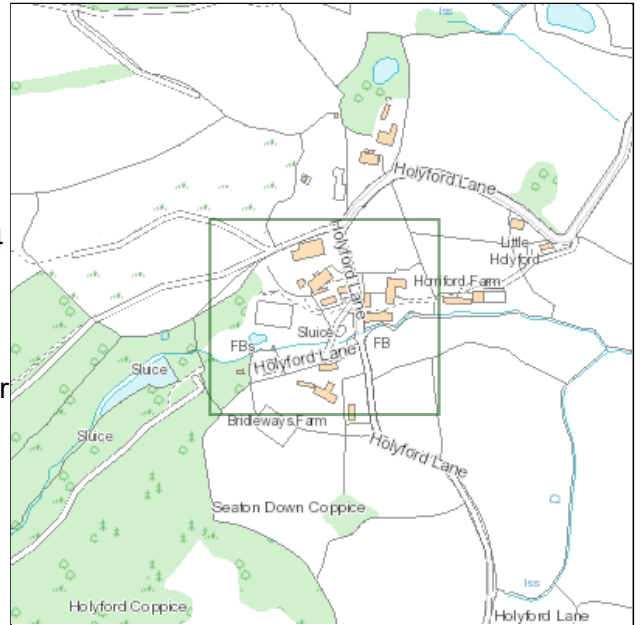
Ward Coly Valley

Reference 22/0395/FUL

Applicant Mr Bernard Vanier

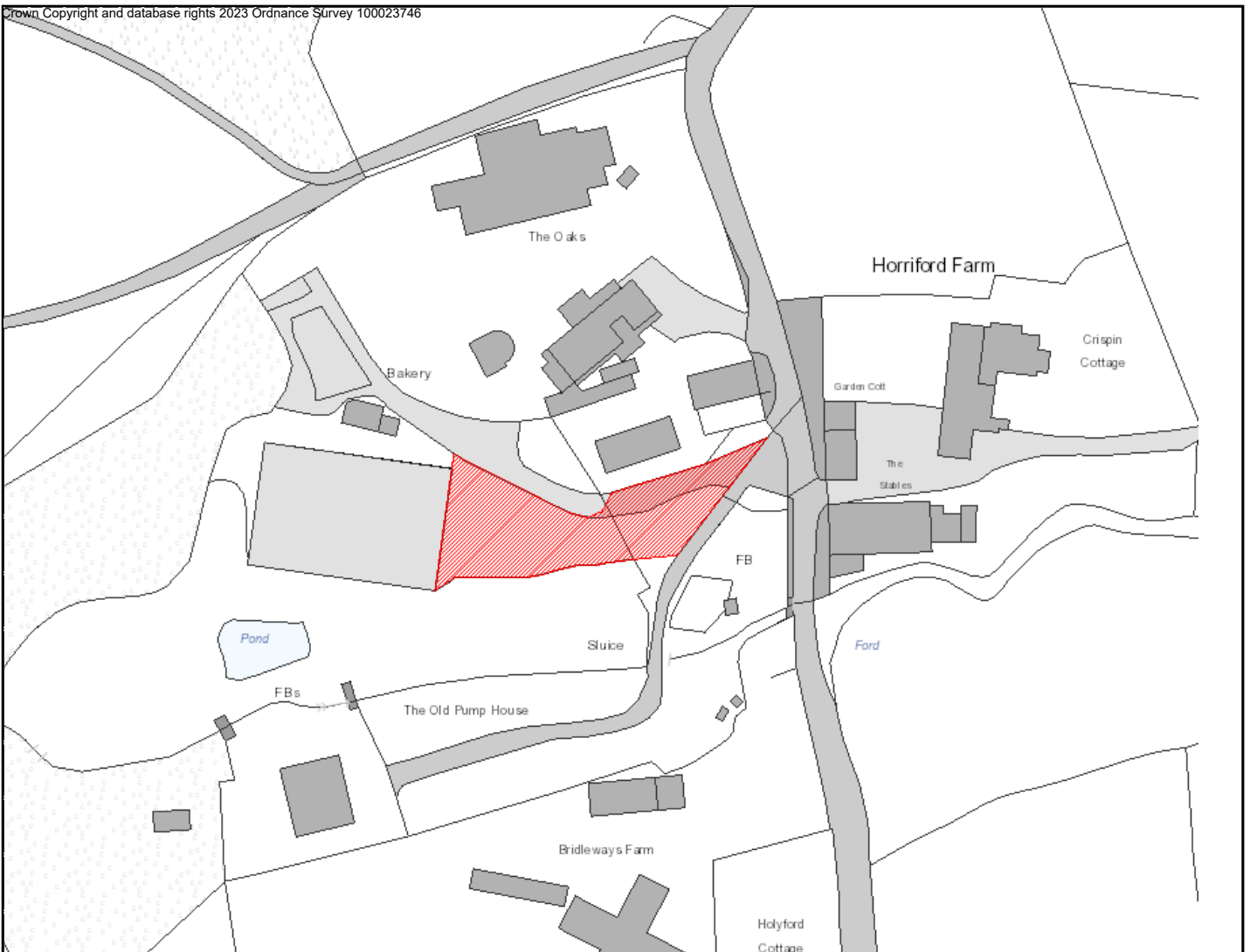
Location The Oaks Holyford Lane Colyford Colyton EX24 6HW

Proposal Change of use of land to garden and construction of building to form artist studio/workshop and garden machinery store for use incidental to the enjoyment of the main dwellinghouse and associated works, including retention of earthworks, level changes and Devon Bank; hardsurfacing, and; installation of gates and landscaping (part retrospective).



RECOMMENDATION: Approval with conditions

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		Committee Date: 25.04.2023
Coly Valley (Colyton)	22/0395/FUL	Target Date: 18.04.2022
Applicant:	Mr Bernard Vanier	
Location:	The Oaks, Holyford Lane, Colyford	
Proposal:	Change of use of land to garden and construction of building to form artist studio/workshop and garden machinery store for use incidental to the enjoyment of the main dwellinghouse and associated works, including retention of earthworks, level changes and Devon Bank; hardsurfacing, and; installation of gates and landscaping (part retrospective).	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

The application is before committee on the referral of the Committee Chair.

The application site is located in a rural location in countryside between Seaton and Colyton. It is accessed from Colyford to the east via Holyford Lane. The host dwelling 'The Oaks' forms part of a small collection of residential properties and associated outbuildings. There is also a small commercial patisserie occupying buildings to the north of the site and between it and The Oaks.

Permission is sought for the change of use of an area of land adjacent to the residential curtilage of the applicant's property and an equestrian exercise area (not in use). The land is accessed via an existing driveway that serves The Oaks.

It is understood that the applicant is a keen amateur artist who specialises in sculptures and that the purpose of the building would be to provide an undercover space where he is able to undertake his hobby and which would provide specialist space and cover for metalwork and ceramics, as well as providing a garden machinery store to assist in the upkeep of the gardens. The Council's environmental health officer has confirmed that any amenity impact that might arise from activities within the building could be acceptably controlled by condition.

The building would occupy low lying land to the south of the host dwelling and has been designed to be partially cut into the natural slope of the land. It would have a simple functional form and would be clad in timber under a low mono-

pitched roof. A Devon Bank has been constructed to the south of the site and a landscaping condition could require the restocking of this with native species so as to minimise any visual impact. Additionally, conditions could prevent external lighting and remove permitted development rights for further development on this part of the site. Subject to such conditions the landscape and visual impact of the building is found to be acceptable and where the building would be viewed in context with other buildings in the group including those of a similar scale and form.

In other regards the Environment Agency who initially objected to the application have lifted their objection following flood modelling works.

Consideration has been given to the impact of the building in relation to Holyford Farm (grade II listed) and its associated curtilage buildings but the separation distance from this together with the conditions that can be imposed to control landscaping, noise impacts and the details of any gates, leads to the views that harm to the setting would not arise.

Objections have been put forward with regards to the loss of trees from the site prior to the submission of the application. Although such loss is disappointing it is not considered that their removal required permission and nor is it the case that re-planting of the site with native trees can be reasonably required.

On balance and on the basis that the current condition of the site is the starting point for determination, the proposal is considered to represent an acceptable form of development. The proposed use, as ancillary to the residential use of the adjoining dwellinghouse, is in keeping and conditions can be imposed controlling activities within it to ensure residential amenity is protected. Subject to the conditions set out below the proposal is considered to be acceptable and is recommended for approval.

An appropriate assessment also concludes that subject to specified conditions that the proposal would not, either alone or in combination with other development, give rise to a likely significant effect on the Beer Quarry and Caves Special Area of Conservation.

CONSULTATIONS

Local Consultations

Parish/Town Council

11/01/23 - The Colyton Parish Council do not support this application for the following reasons:

1. Although the floor plan has been reduced, it was felt the development was oversized and not in sympathy with the surroundings through height and choice of materials.
2. The proposal would not enhance the unspoilt, quiet valley.

3. Concern expressed regarding the potential noise pollution from the metal workshop.
4. There should have been a tree survey and wildlife survey completed before the clearance of trees and excavations on the site.
5. The site was previously part of the edge of Holyford Woods and a rare wildlife habitat
6. The proposals would not be in accordance with the Neighbourhood Plan which recommends sympathetic development in the countryside
7. The recommendations of the Pre-App seem, to an extent, to have been ignored.
8. The Devon Bank with planting has been completed, but this should have sought formal planning permission first.
9. Concern was expressed regarding the future use of the building as a commercial premises for the selling of sculptures, as mentioned in the planning documents.

18/03/22 - Colyton Parish Council do not support this comment for the following reasons:

1. The development was oversized and not in sympathy with the surroundings through height and choice of materials.
2. The proposal would not enhance the unspoilt, quiet valley
3. Concern expressed regarding the potential noise pollution from the metal workshop
4. There should have been a tree survey and wildlife survey completed before the clearance of trees and excavations on the site.
5. The site was previously part of the edge of Holyford Woods and a rare wildlife habitat
6. The proposals would not be in accordance with the Neighbourhood Plan which recommends sympathetic development in the countryside
7. The recommendations of the Pre-App seem, to an extent, to have been ignored
8. The Devon Bank with planting has been completed, but this should have sought formal planning permission first.

Technical Consultations

21/03/23 - CONSULTATION REPLY TO CENTRAL TEAM LISTED BUILDING CONSENT/CONSERVATION AREA PLANNING APPLICATION AFFECTING LISTED BUILDING

ADDRESS: The Oaks, Holyford Lane, Colyford, Clyton

GRADE: II APPLICATION NO: 22/0395/FUL

CONSERVATION AREA:

PROPOSAL: Change of use of land to garden and construction of building to form artist studio/workshop and garden machinery store for use incidental to Change of use of land to garden and construction of building to form artist studio/workshop and garden machinery store for use incidental to the enjoyment of the main dwellinghouse and associated works, including retention of earthworks, level changes and Devon Bank; hardsurfacing, and; installation of gates and landscaping.

BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:

SITE DESCRIPTION

Holyford farmhouse is grade II listed and is a thatched and clay tiled building constructed C16. To the south is a stone outbuilding with corrugated iron roof and to the west side is the former historic stables. The proposed site lies to the west.

HOW WILL PROPOSED ALTERATIONS AFFECT HISTORIC CHARACTER OF BUILDING AND ITS SETTING:

OFFICER ASSESSMENT

The proposed unit is for a personal permission for a metal workshop accessed from the existing access road opposite Horriford Farm; a spur road would be taken off the existing access to the metal workshop. The proposed building would be timber clad and a two storey, mono pitched roofed structure visible from Holyford Farm but partly hidden by an existing bank.

- o It isn't clear how much of the building will be seen above the existing bank.

Further information is required to clarify. .

- o The proposed building could be sound proofed with sound insulation and the doors and windows remain closed during hours of operation.

- o There are no details of the entrance gates

- o The proposed building does not visually relate to the character and appearance of Holyford farm and the outbuildings around it. Due to its closer proximity and level of land it will have some relationship to the group unlike the Oaks. The historic buildings in this group are more traditional with natural stone and timber clad walls and clay double roman and corrugated iron roofs. The proposed building is alien to this character and its style of architecture contrasts against it.

- o It is recommended the appearance of the building is reconsidered to more clearly reflect the character and appearance of the group of buildings..

PROVISIONAL RECOMMENDATION - PROPOSAL

Holding response

EDDC District Ecologist - Rory Chanter

30/09/22 - The proposal is not supported by an Ecological Impact Assessment (EclA) report, despite being requested during the Pre-app, having potential ecological impacts, being in close proximity to a Local Nature Reserve and immediately adjacent to priority habitats. The site appears to have been cleared of willow/alder wet woodland in the year prior to the application being made (as

ascertained through photographs provided). No professional assessment has been made of the current habitats on the site, and concurrently no valid ecological impact assessment has been made. The development of this site may result in the loss of habitats used by protected species (and subsequent killing or injury of protected species and destruction of resting places), alongside potential indirect impacts such as impacts from lighting and pollution. Without an EclA, EDDC cannot carry out its biodiversity duty under Section 40 of the NERC Act.

The site is situated within the Beer Quarry and Caves Special Area of Conservation (BQ&C SAC) sustenance zones for greater horseshoe bats, lesser horseshoe bats and Bechstein's bats. These species are well documented within the Holyford Valley, due to bat radio tracking and trapping work carried out by local bat research groups. The habitats immediately adjacent to the site form an area of key foraging habitat for all three SAC qualifying feature species (greater and lesser horseshoe bats, and Bechstein's bats). Destruction of habitats on the proposal site and the potential illumination of surrounding foraging and commuting habitats (all habitats in the vicinity) would result in a likely significant effect (LSE) on the qualifying features of BQ&C SAC.

The EclA required should consider both direct and indirect impacts of the proposals, as well as forming a shadow HRA conclusion and providing the LPA with all information necessary to carry out HRA. Refer to the latest version of the Beer Quarry and Caves SAC Guidance attached.

Avoidance, mitigation and compensation measures are likely to be required in order to ensure that the boundaries of the site and surrounding habitats are not illuminated beyond 0.5 lux (as a result of glazing and internal luminaires, as well as external lighting), and that habitats lost to development or illuminated are adequately compensated for through compensatory habitat creation, to ensure that there is no net loss in bat foraging/commuting resources. It would be expected that no external lighting be proposed. Refer to the BQ&C SAC Guidance document on the EDDC website for full details.

Therefore, currently, the application is not compliant with EDDC Local Plan policies EN4 and EN5, Strategies 5 and 47.

In order to address these requirements, the applicant should provide an EclA report, alongside all relevant information necessary for EDDC to carry out a HRA, including full mitigation and enhancement proposals. These documents and assessments should be prepared by a qualified ecologist with experience of carrying out HRA.

The area in question was also identified as "important woodland" in the neighbourhood plan. The proposals are also therefore not considered to be in accordance with this element of the neighbourhood plan.

Environment Agency

25/01/23 - Thank you for your consultation of 22 December 2022 following submission of further information in respect of this planning application.

Environment Agency position:

We consider that the proposed development will be acceptable if subsequent planning permission includes a condition to secure implementation of the flood mitigation measures set out in the applicant's flood risk assessment. Our recommended condition and advice regarding flood risk management are set out below.

Condition - Implementation of Flood Risk Assessment:

The development shall be carried out in accordance with the submitted flood risk assessment (Ref. December 2022/Dennis Gedge Consulting Engineer) and the following mitigation measures it details:

- o Finished floor levels shall be set no lower than 43.11 metres above Ordnance Datum (AOD).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

Advice - Flood risk:

Site-specific modelling has been undertaken which demonstrates that the development site is at a lower risk than what is indicated on the flood map planning. The flood map for planning will now be updated based on this modelling and the site will be considered to be located in the low probability flood zone 1. We are therefore happy to remove our objection on the basis that the development will be safe from flooding.

There is, nevertheless, a small area of the access road where flood depths will be increased because of the development. As this location of moderately increased depth (0.01-0.1m) is not to a residential property and this increase, when compared to the baseline flood depths for the design flood event, will not be increasing the hazard banding we do not have any objections on this basis.

The planting of trees and vegetation is beneficial for the infiltration and absorption of surface water. This planting will not negate the surface water risk in the area but is a positive aspect of the application that we support.

Note for the Local Planning Authority - Surface water:

Incremental development in this area has meant that there has been a gradual increase in impermeable area within the catchment. As this is a minor development, we understand that the Lead Local Flood Authority may not be commenting directly. Nonetheless, we recommend that it is important that the LPA considers surface water drainage and how increase in run-off will be managed on site.

13/05/22 - Thank you for your consultation of 25 April 2022 following submission of further information in respect of this planning application.

Environment Agency position:

We maintain our object in principle to this proposal on flood risk grounds. The land raising works result in a reduction in floodplain storage and therefore an increase in flood risk to third parties. More detail setting out the reason for our position are set out below.

Reason - Flood risk:

We have reviewed the 'EDDC Pre-app Response' document and the change to the application description and therefore now understand that planning permission for the raising of ground levels and construction of hedgebank is being sought as part of this application. As the land where levels have been raised is within the functional floodplain we are concerned that the works result in a reduction in floodplain storage and therefore an increase in flood risk to third parties.

A letter (reference DW08801) has been submitted by Mr. Dennis Gedge addressing concerns that were raised in our response dated 05 April 2022. As the raising of ground levels to allow for the workshop to be above the flood level is something that we object to, we maintain that this site is flood zone 3b functional floodplain and therefore the development is not appropriate for this site. The National Planning Policy Framework (NPPF) (e.g. paragraphs 159 and 167) is clear that development must not increase flood risks elsewhere.

We understand that the site levels have already been raised and hedgebank constructed and that this part of the application is retrospective. As we object to both the workshop and associated level raising and hedgebank construction ground levels must be reinstated to the original levels.

Overcoming our objection:

To be able to remove our objection the workshop must be moved out of flood zone 3b. When located out of the functional floodplain, finished floor levels of the workshop must be 600mm above the proposed flood level to account for a freeboard. We will maintain an objection if ground levels of the functional floodplain are raised because this will increase risk to third parties, in accordance with the NPPF and Planning Policy Guidance.

05/04/22 - Thank you for consulting us on this application.

Response:

We object to this proposal in principle.

Reason:

The Flood Risk Assessment (FRA) has incorrectly interpreted flood zones in the area. The FRA, specifically the 'Proposed Block Plan' drawing shows a drawn-on flood zone that is different to that of the Environment Agency mapping.

The correct flood zone extents put most of the proposed building in Flood Zone 3B functional floodplain. In line with NPPF technical guidance this development is not appropriate in the functional floodplain and it is therefore recommended that the application is rejected on flood risk grounds.

Note to the LPA:

Although the Devon hedgebank has not formed part of this application, we are aware that this work has occurred in recent months and is detailed on the development drawings. This bank is in the functional floodplain and is therefore changing the flood function of the land, in doing so flood risk to third parties is being increased.

Overcoming our objection:

The FRA must be updated to show the correct flood zone extents. The entire development proposals must then be moved out of the functional floodplain.

The FRA has stated that the 0.1%AEP is usable as the 1%AEP, plus climate change level, however there have been no flow calculations submitted to support this statement.

Environmental Health

20/01/23 - No deliveries shall be accepted or despatched to or from the site except between the hours of 8:00 until 18:00 Monday to Friday, or 8:00 until 13:00 on Saturdays, and not at all on Sundays or Bank Holidays.

Reason: To protect the amenities of local residents from noise.

23/12/22 - As per my previous comments made on the 4th April.

04/04/22 - I have considered the application and I do have environmental health concerns regarding the proposed building, due to its use as a workshop (including metalworking) in relation to noise. In order to address these concerns I recommend approval with the following conditions attached:

o Before the development commences the details of a scheme of noise insulation measures to include the walls, floors and roof that must be sufficient to provide effective resistance to the transmission of airborne and impact sound between the uses hereby permitted and neighbouring properties shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be completed prior to the commencement of the use hereby permitted.

o A suitable and sufficient means of extract ventilation and/or air conditioning shall be provided within the building so that windows and doors can be kept closed when machinery/power tools are being operated. The specific noise level of any fixed plant or equipment installed and operated on the site must not exceed 25dB LAeq(1hr) at the boundary of the nearest noise sensitive property.

o The windows and doors shall be kept closed at all times when any noise generating equipment, machinery or power tools are in use.

Reason : To protect adjoining occupiers from excessive noise.

DCC Flood Risk Management Team

03/02/23 - Given the small scale nature of the proposal and the fluvial concerns addressed via the EA, I don't think there's any further comments we wish to make.

You may want to seek details of how surface water will be managed during the construction stage (perhaps via condition).

22/03/22 - Recommendation:

Devon County Council's Flood and Coastal Risk Management Team is not a statutory consultee for the above planning application because it is not classed as a major development under Part 1(2) of The Town and Country Planning (Development Management Procedure) (England) Order (2015). However, we have been approached by the Local Planning Authority to provide advice in respect of the surface water drainage aspects of the above planning application, which is outlined below.

Observations:

The applicant has proposed to reuse surface water from the roof. The applicant has also proposed to construct all of the external areas with permeable gravel. The applicant should confirm whether the retaining wall drainage will flow onto this gravel.

We are aware of potential engineering works which may have occurred recently within the vicinity of the site. These works may have occurred within Flood Zones 2 and 3. The applicant should clarify what works have recently occurred, as these works may have altered the capacity of the flood zones.

Natural England

30.03.23 - Thank you for your consultation on the above dated 16 March 2023 which was received by Natural England on the same day.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE:

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED.

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Beer Quarry and Caves Special Area of Conservation (SAC).

Please be advised that, on the basis of the mitigation outlined in the Appropriate Assessment being secured, Natural England concurs with your authority's conclusion that the proposed development will not have an adverse effect on the integrity of Beer Quarry and Caves SAC.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

Protected Species:

Natural England has produced standing advice

(<https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>) to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Other Representations

16 no. representations have been received of these 11 are considered to raise objections to the scheme (including from the Devon Wildlife Trust and the Campaign to Protect Rural England) and 4 are in support.

Reasons for objection

- The proposals site was formerly important woodland and should be protected from development.
- The mitigation measures proposed in the submitted Ecological Appraisal do not provide sufficient security that such measures will be delivered
- Noise impacts on the local area from machinery proposed to be and already in use
- Pollution of air and water through release of particulates associated with metal work
- Loss of trees and habitat already taken place and no biodiversity net gain is secured.
- Impact on nearby heritage assets
- Development out of keeping with its context.
- The proposal appears to be designed more for commercial than ancillary residential use.
- No indication of biodiversity net gain
- The site was formerly a natural extension to Holyford Woods and its loss and development would be harmful to the character of the area and represent a loss of wildlife habitat.
- Design of building, use of materials and scale is not appropriate in this context
- The development approved under application 17/1353/FUL did not specifically refer to a new driveway which this development is served by.
- Any access gates, together with the driveway would add to the suburban character of the development
- The proposal does not demonstrate how it would meet the sustainable development requirements of the Neighbourhood plan.
- Loss of ancient wet woodland habitat
- Light pollution from proposed unit
- The proposal is contrary to policies of the newly made Neighbourhood Plan
- The proposal represent sporadic development in the countryside
- The proposal has already virtually destroyed a Devon bank
- The scale of the building will dominate the area

- The pre-application request for an ecology survey has been ignored and no indication of mitigation of any impacts of the development have been provided.
- There are already a number of outbuildings providing storage space for garden tools and machinery
- Increased traffic associated with the use.
- No indication of the dimensions of the building have been provided on the submitted plans
- Inaccuracies and discrepancies on submitted plans
- New building is unjustified in this context
- The plans indicate two toilets which appears unnecessary for an ancillary residential building.
- Impact of the building alone and cumulatively with other development on the hamlet and rural context
- Impact on tourism businesses operating there and the setting of nearby listed buildings
- The flood risk assessment fails to adequately address the flooding implications of the development which could give rise to increased flood risk of adjoining sites.
- The application of the sequential test suggests that the building should be sited in an area of lower flood risk.

Reasons for support

- The proposal is well-designed to minimise its impacts
- Extensive hedge planting has been undertaken
- The proposal would 'fit' in the landscape.
- The proposal could/would include extensive sound proofing
- The height of the structure is required to accommodate large sculptures but by cutting the building into the site the impact of the building's height would be reduced.
- The proposal is for personal not commercial use only
- The proposal would be well screened from the public highway, local footpaths/bridleways and other viewpoints
- The design has been conceived to minimise the visual impact
- The site previously consisted of brambles nettles and few willow trees and was not comparable with the rich habitat of Holyford Woods
- The proposal including Devon bank would provide a more diverse habitat than that which has been removed.
- The building will contain the noise of the power tools currently used in the open air.

PLANNING HISTORY

Reference	Description	Decision	Date
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17/1353/FUL	Change of use of paddock to domestic garden, erection of 2 no. sheds and creation of vehicular access to the highway	Approval with conditions	03.11.2017
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POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 3 (Sustainable Development)

Strategy 5 (Environment)

Strategy 7 (Development in the Countryside)

Strategy 38 (Sustainable Design and Construction)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN4 (Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites)

EN5 (Wildlife Habitats and Features)

EN21 (River and Coastal Flooding)

EN22 (Surface Run-Off Implications of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

EN14 (Control of Pollution)

Colyton Neighbourhood Plan (Made)

Coly 1 – Protecting the Natural Environment

Coly2 – Trees, Woodlands and Hedgerows

Coly6 – Sustainable Development

Government Planning Documents

Site Location and Description

The application site relates to a small parcel of land located to the south of and outside of the recognised curtilage of the property known as 'The Oaks'. There are a number of outbuildings between the site and the dwellinghouse one of which houses a commercial patisserie. In the immediate vicinity are a number of other residential properties which together form the small hamlet of Holyford.

The site lies at the bottom of a shallow valley through which the Holyford Brook runs approximately east-west. The site lies within Flood zones 2 and 3. Public bridleways are located to the south (approximately 35 m away) and the north (approximately 77 m away) and a public footpath also lies to the northwest (approximately 89 m away). Holyford (Horriford) Farm, which is Grade II Listed, lies approximately 41 m to the east of the site, with the curtilage listed dwellings Garden Cottage/The Stables being only 19 m away to the east, on the opposite side of the highway. These are the closest neighbouring dwellings to the site.

The site is irregularly shaped and includes an area of cleared woodland, an open brook and a newly created earth bank on the southern boundary, as well as part of an existing access drive that leads from Holyford Lane to the south of the Oaks.

The site lies outside of any Built up Area Boundary defined within the East Devon Local Plan (LP) and is therefore considered as open countryside. It falls outside of any specific landscape designations and within landscape character type '3B Lower rolling farmed and settled valley slopes', as described in detail in the East Devon Landscape Character Assessment.

Planning history

There is a relatively extensive planning history relating to the adjoining site, The Oaks, the most recent and most relevant of which date from 2017 (17/1353/FUL as above).

This application related to land to the north of the application site and southwest of The Oaks, the current application site overlaps partially with the site of 17/1353/FUL in that the initial section of driveway from Holyford Lane is shared.

Proposed development

The proposals includes a number of inter-related elements as follows:

1. Change of use of land to garden, relating to the majority of the site area (other than that which falls within the area approved under 17/1353/FUL);
2. Construction of a building to form an artist studio/workshop and garden machinery store for use incidental to the enjoyment of the main dwellinghouse. The building would be finished in vertical timber cladding;
3. Other associated works, including retention of earthworks, level changes and Devon Bank; hardsurfacing, and; installation of gates and landscaping.

In relation to 3. Some of the works have already taken place and as such permission is sought retrospectively, this relates to some levelling and other works within the main site area following the clearance of the woodland. In this regard it should be noted that the clearance of the woodland itself does not require planning permission. The 'Devon bank' has also already been formed and marks the southern boundary of the site.

During the course of the application the proposed building has been revised to show a reduction in the footprint and massing of the building. The footprint has been changed from an L shape plan form to a simple recti-linear plan form and reduced from 138 sqm (internal floor area of 210sqm) to 88 sqm (internal floor area of 117sqm). The height has also been reduced by 0.5 metres

ANALYSIS

It is considered that the main issues in the determination of the application are as follows:

- The principle of the development
- Flood Risk impact
- Impact on the character and appearance of the area
- Ecological Impact
- Heritage Impact
- Amenity Impact
- Other Issues

These are discussed below.

Principle

East Devon Local Plan (2013-2031)

The application site falls outside of a defined settlement boundary and as such in accordance with Strategy 7 of the EDLP falls to be considered as open countryside.

Within the open countryside Strategy 7 only supports development where such development is explicitly permitted by another policy of the Local Plan or, where relevant, Neighbourhood Plan.

There are no specific policies of the Local or Neighbourhood Plan that would support the development proposed either in relation to the proposed change of use of the land to residential garden or the erection of a building on that land for ancillary residential purposes.

Colyton Neighbourhood Plan (2020 – 2031)

As with the EDLP the CNP does not include any policies which explicitly support development of the nature proposed.

The proposal is therefore considered to represent a departure from the development plan. Nevertheless despite the lack of explicit policy support, it needs to be

considered whether any harm would arise from the proposal or whether despite the lack of policy support its impact might otherwise be acceptable. In this regard it is recognised that a similar approach was taken in relation to application 17/1353/FUL and where in that instance no harm was identified and the change of use of an area of adjoining land to residential garden and erection of ancillary buildings was found to be acceptable.

Flood Risk Impact

The application site lies partially within Flood Zone (FZ) 1 and partially in Flood Zone (FZ) 3 as shown on the Council's flood maps, which are provided by the Environment Agency. Whilst the original plans indicated that the footprint of the building would lie in FZ 1 other areas of the site, including earthworks and level changes already undertaken (including the Devon Bank) are shown to be within FZ3.

The Environment Agency (EA) raised objection to the proposal as originally submitted on the basis that the flood zones indicated on the submitted plans did not correlate with the EA's own flood maps which showed parts of the site, including part of the building footprint within FZ3B (functional floodplain).

Following the EA's objections the applicant has engaged with the EA and has submitted a flood map challenge – suggesting that the flood maps in the vicinity of the site are flawed and should be redrawn. The flood map challenge has been considered by the EA who have, as a result, accepted that the flood maps for the area do not reflect the realities on the site. The EA have subsequently advised that the flood maps will, in due course, be updated but that in relation to this application it can be concluded that the site lies within Flood Zone 1 and therefore has a low probability of flooding. They have indicated that a small area of the access road where flood depths will be increased but as the increase is modest and does not affect a residential property they have no objection to this. The planting of additional trees and landscaping is seen as a benefit and the EA has encouraged the LPA to consider how surface water drainage would be dealt with. Overall and subject to a condition to secure the mitigation measures set out in the submitted FRA the EA's original objection has been withdrawn.

In relation to surface water drainage Devon County Council as the Local Lead flood Authority has commented on the application that given its small scale nature and that fluvial concerns have been addressed by the EA that they have no additional comments to make. They have however suggested that consideration could be given as to how surface water would be managed during the construction stage and this could be conditioned

Impact on the character and appearance of the area

The application site has previously been cleared of trees and earthworks undertaken to alter site levels and to create a bank along the southern site boundary.

The parish council and a number of third party representations make reference to these works and concerns regarding both the ecological impact and loss of important woodland. Policy Coly 2 of the Colyton Neighbourhood Plan, amongst other aims,

seeks to: retain and protect areas of natural woodland; resist development that would result in the loss of or damage to trees, or where this is unavoidable provide suitable replacement planting together with ongoing management measures.

The application site appears to be covered by the area defined on Map 4 of the Colyton Neighbourhood Plan as important woodland and therefore covered by policy Coly 2.

In relation to tree removal at the application site this took place prior to the application being submitted and where the trees were not formally protected, as such their removal did not require planning permission. Correspondence with Forestry England in relation to the need, or not, for a felling licence has been undertaken and they have advised that this was investigated at the time but where it was determined that no offence had been committed under the relevant legislation (Forestry Act 1967). This being the case whilst the concerns raised by the parish council and third parties relating to the loss of natural habitat and tree cover are recognised and the removal of trees from the site is disappointing, this did not require planning permission and there is no planning requirement for the area to be replanted and managed as woodland. This being the case it is not considered that its former appearance can be taken into account in respect of the current application.

The proposal includes the retention of the Devon bank that has been constructed and planted with, amongst others, native species hedge plants along the southern boundary of the site and which would give rise to some biodiversity benefits. In addition, a line of Poplars has been planted to the south of the Devon Bank. At present the Devon Bank planting and line of Poplars are at a stage where they provide limited screening benefits, however their effect in this regard will increase over time and assist in filtering views of the building and reducing its visibility. On this point, comment have been made in relation to the Poplars representing an inappropriate form of planting in this location, whilst these comments are noted this planting does not need permission and therefore is beyond control.

Public views of the site would be afforded primarily on approach from the south via Seaton Bridleway 7 and in views from the east from the junction of the access track with Holyford Lane. In such views, the proposals would be seen as part of the loose knit development of properties and outbuildings that form Holyford and from the south against the backdrop of rising land. The materials proposed have been chosen to minimise the visual impact of the building and to help it blend into its surroundings. The partially sunken nature of the development, the reduction in the scale and height of the building, the removal of any glazed openings from the southern and eastern elevations together with the screening afforded by the Devon Bank (and in time the planting atop this) would have the effect of reducing the impact of the building. Whilst the aims of policy Coly 2 are noted and the proposal would remove this area of land for 'woodland' use, given that the development proposed through the application would not result in loss of any trees and there is no policy requirement that could require planting of trees on the site, there is no mechanism to require the land to be restored to its former condition. In this context and given the scale of the development, its simple form and use of materials and the screen planting that could be secured by condition it is not considered that refusal on the grounds of its impact on the character or appearance of the area could be sustained and any wider landscape views of the

site would see the building in association with the existing group of buildings that comprise Holyford.

Ecological Impact

The application site was previously an area of tree cover which was cleared prior to the submission of the application. It has therefore been suggested that the requirements of the Environment Act 2021 and the need to demonstrate 10 % net biodiversity gain are relevant. However, whilst current policy (including Stgys. 3 and 5 and policy EN5 of the EDLP and Coly 1 of the CNP) encourage net gain where possible the legal requirement under the Environment Act has no effect yet (until brought into force through secondary legislation).

It has further been suggested that the removal of trees and changes undertaken has resulted in the loss of valuable wet woodland habitat and that this should be reinstated. However, as set out above there is currently no requirement for this and the removal of the trees and undergrowth from the site did not require planning permission. The starting point for assessment therefore is the current condition of the site which is a cleared site with limited ecological or biodiversity value, although there are nearby sites, such as Holyford Woods Local Nature Reserve, that provide habitat for protected species such that these (specifically bats) are likely to be active in the area.

The proposal includes retention of a Devon bank that has been constructed on the southern site boundary and has been planted with native species, in time this will provide habitat enhancement. Other areas of new planting are also indicated to the east of the building.

The amended application is accompanied by a Preliminary Ecological Appraisal (PEA) which has considered the potential direct and indirect impact of the proposal based on the site's current status.

The site itself is recorded as an area of tall ruderal habitat, dense bramble scrub, scattered shrubs, a recently constructed hedgebank supporting a series of recently planted native and exotic shrub species, areas of gravel and a wet ditch. The report concludes that subject to specified compensation and enhancement measures the proposal would represent a positive biodiversity impact. Those compensation and enhancement measures include provision of bat roosting and bird nesting opportunities, provision for invertebrate habitat and restocking of the hedgebank with native broadleaved shrub species.

In terms of indirect impacts the site is located in close proximity to the Beer Quarry and Caves Special Area of Conservation (SAC), which is located approximately 3.5 km to the west of the site. The BQ&C SAC is designated in part due to its internationally important population of greater and lesser horseshoe and Bechstein's bats. The Council in association with Natural England has produced Habitat Regulations Assessment Guidance in relation to the BQ&C SAC and this indicates that the application site lies within the sustenance zones and Landscape connectivity zones for all three species of bats. These zones are considered to be functionally linked with the BQ&C (SAC) and as such it is necessary to have regard to any

potential impacts the proposal may give rise to and, where so required, to conduct a Habitats Regulations Assessment.

The Local Planning Authority has a duty under Conservation of Habitats and Species Regulations 2017. This duty is for all “competent authorities” (including Local Planning Authorities and other public bodies) to “have regard to the Habitats Directive in the exercise of its functions”.

Regulation 61 (1) of the Habitats Regulations states the following:

“A competent Authority, before deciding to undertake, give any consent, permission or other authorisation for, a plan or project which:

*a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives”.*

The Council has screened the proposal under the Habitat Regulations using information available. The screening has considered the stand alone and in combination impacts of the development on the designated site in the absence of any mitigation and taking account of the following avoidance measures:

- No external lighting to the building.
- No lighting/glazed apertures along the southern elevation of the building

However, the PEA report has confirmed that the proposal would result in the loss of a small area of tall ruderal habitat and the initial HRA screening report therefore concluded that likely significant effect could not be ruled out without mitigation and that full appropriate assessment was therefore required.

The completed Appropriate Assessment is appended to this report, it concludes that with mitigation measures proposed (landscape planting, prevention of external lighting and of new openings on the south elevation of the building) and appropriate conditions to secure these that likely significant effect can be ruled out.

Natural England has been consulted on the Appropriate Assessment and concur with its conclusions.

Heritage Impact

The host dwelling, ‘The Oaks’ is not listed but the neighbouring property to the east, Holyford Farm is grade II listed.

The Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special regard is paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Para. 199 of the NPPF requires great weight to be given to heritage assets conservation, with the more important the asset the greater the weight to be given. Para. 202 states

that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal. Policy EN9 of the EDLP reflects similar aims.

The neighbouring resident at Holyford Farm has raised concern that the proposed development both through its physical presence and any increased activity associated with it could alone, or in combination with existing activity on the adjoining site, harm the setting of the designated heritage asset. Further, it is suggested that such harm could potentially damage the economic viability now, or in the future, of Holyford Farm as a tourism/hospitality business if the tranquil rural setting was changed.



Aerial photo of site with Holyford Farm in pink (curtilage listed outbuildings on roadside to southwest of this and the site of the application building indicated by the arrow.

The planning statement accompanying the application acknowledges the presence of the listed building but does not provide any detailed assessment of the significance of the asset or the impact of development on it, on the basis that the separation distance is such that the proposal would not harm the setting of the listed building.

The Setting of a heritage asset is defined in the glossary at annex 2 to the NPPF as,

“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

In this case the immediate setting of Holyford Farm is its curtilage but its wider setting includes surrounding land. The application site is located to the west of the asset on the opposite side of Holyford Lane and located over 50 metres from it. There are a number of existing buildings which lie between the site and the asset or are closer to

it. It is also noted that there is existing tree and vegetation cover that further provides a visual separation between the sites.

The Council's conservation officer has assessed the proposal and its potential to impact on the setting of Holyford Farm, they acknowledge that views of the site would be partially screened but consider that further information is required to determine how much of the building would be visible above the Devon Bank, details of the proposed gates and also recommends that consideration is given to amending the design of the building to better relate it to the historic building group of which Holyford Farm forms part. On the first point, the submitted section plan indicates the height of the building in relation to the Devon Bank and therefore the extent of building that would be visible above it. It also gives an indication of screening that might be afforded by planting atop the bank, it is not clear what additional information could be provided in this respect.

The proposed unit has been designed to have a simple form and its siting cut into the slope would further help to reduce its visibility as would the proposed external materials and measures proposed to reduce lighting at night. A further area of planting is indicated to the east side of the building, in the line of site down the driveway and this would further assist in filtering views of the proposed building. Given the aforementioned, it is not considered that the proposal would result in any harm to the setting of the nearby listed building in terms of its physical proximity or visual impact. With regard to other potential harm through for example increase in noise or activity these issues are considered below.

Amenity Impact

The application is for an artist's studio and workshop and garden store ancillary to the residential use of the property, as such it is not a commercial use that is proposed but for the applicant's own personal use.

The planning statement acknowledges that, "*...there may be some level of noise arising from the use of tools and machinery used in the fabrication of artwork and structures,*" but that, "*... the noise levels would be no more than that to be expected in an ordinary domestic environment where occupiers of properties could use power tools and machinery for DIY purposes or repair/restoration of private vehicles etc*". It is further advised that such activities are currently undertaken in the open air due to a lack of suitable buildings and where it is suggested that housing such activities within a purpose built building would be beneficial in controlling noise.

Concerns have been raised by the parish council and some local residents in relation to the impact of the development on the tranquillity of the area and also in relation to other potential polluting impacts of the proposal.

The type of activities that would be undertaken do have the potential to give rise to some harmful impact, however it is also acknowledged that undertaken on a personal basis would not in themselves be subject to control, other than were a statutory noise nuisance to occur. Whilst the provision of a building to house these activities would be likely to give rise to an increased frequency in them taking place, containing them within the building would also enable their impact to be reduced through sound proofing etc.

The Council's Environmental Health Officer has considered the proposal and subject to conditions to: require a scheme of noise insulation; limit the noise output at the boundary of nearby neighbouring properties and to control delivery times has raised no objections to the proposal. These conditions on the whole are considered reasonable, however with regard to control over deliveries to the site it must be borne in mind that this is not an application for a commercial business and that deliveries are therefore likely to be limited in time and frequency and no doubt within the hours proposed by the condition, however as there is no control over timing of deliveries to the applicant's residential property, of which the proposal would form part, such a condition would likely prove to be unenforceable.

Other Issues

A number of representations have been made raising concern about the potential future uses of the building were permission to be granted. These concerns are acknowledged but an application can only be determined on the basis for which it has been applied. Any future proposals to seek further development or a change in the use of the building would in themselves require a further application for planning permission which would be judged on its merits at the time.

CONCLUSION

The application seeks permission for a change of use of an area of land adjacent to the residential curtilage of the property and an equestrian exercise area (not in use). It is understood that the applicant is a keen amateur artist who specialises in sculptures and that the purpose of the building would be to provide an undercover space where he is able to undertake his hobby and which would provide specialist space and cover for metalwork and ceramics, as well as providing a garden machinery store to assist in the upkeep of the gardens.

The site is located on low lying ground to the south of the host dwelling and would be served by an existing driveway. It is partly cut into the natural slope of the land and would be clad in timber to give a more natural and recessive appearance. A Devon Bank has been constructed that would, in time, help to filter views of the building from surrounding public vantage points and the development could be conditioned to prevent external lighting and any openings on the southern elevation of the building. Whilst the building was originally objected to on flood risk grounds the Environment Agency has lifted their objection following flood modelling works. Consideration has been given to the impact of the building in relation to Holyford Farm (grade II listed) and its associated curtilage buildings but the separation distance from this together with the conditions that can be imposed to control landscaping, noise impacts and the details of any gates, leads to the views that harm to the setting would not arise. Other objections that have been raised relate to the status/condition of the site prior to the submission of the application and where trees have been removed. Whilst the loss of trees from the site is disappointing it is not considered that their removal required permission and nor is it the case that re-planting of the site with native trees can be reasonably required.

On the basis of the current condition of the site, which is the starting point for determination, the proposal is considered to represent an acceptable form of development the use of which, as ancillary to the residential use of the adjoining dwellinghouse, is in keeping and where conditions controlling activities within it can ensure residential amenity is protected. Subject to the conditions set out below the proposal is considered to be acceptable and is recommended for approval. An appropriate assessment appended to the report also concludes that subject to specified conditions that the proposal would not, either alone or in combination with other development, give rise to a likely significant effect on the Beer Quarry and Caves Special Area of Conservation.

RECOMMENDATION

- 1. Adopt the appropriate assessment appended to this report**
- 2. 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. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for:
 - a) the full period of its construction, and;
 - b) the permanent surface water management of the site thereafter;have been submitted to, and approved in writing by, the Local Planning Authority. Both the temporary and permanent surface water drainage management systems must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the site. Development shall proceed in accordance details as agreed.
(Reason - To ensure that surface water runoff from the site both during the construction phase and thereafter is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area and to accord with policy EN22 - Surface Run-off Implication of New Development. A pre-commencement condition is required to demonstrate prior to the commencement of any works that surface water can be effectively managed without increasing flood risk negatively affecting water quality or impacting on surrounding areas and infrastructure.)
3. The building hereby permitted shall be used only in conjunction with, and ancillary to, the use of The Oaks as a single dwelling house and shall not be used as a separate dwelling or for any commercial, industrial or business purpose.
(Reason - The building is unsuitable for independent residential occupation due to its relationship with adjacent dwellings and it is in an unsustainable/inaccessible location where a separate unit of accommodation would not be adequately served by a range of service and facilities and a commercial use could cause undue noise/disturbance to adjoining occupiers in accordance with the requirements of Policy D1 - Design and Local

Distinctiveness and Strategy 3 - Sustainable Development of the Adopted East Devon Local Plan 2013-2031.)

4. No development above foundation level shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been 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 considered at an early stage and 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.)

5. No development above foundation level shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority:

- a) a scheme of noise insulation measures (to include the walls, floors and roof) sufficient to provide effective resistance to the transmission of airborne and impact sound between the building hereby permitted and neighbouring properties has been submitted to and approved in writing by the Local Planning Authority.

- b) a suitable and sufficient means of extract ventilation and/or air conditioning sufficient so that windows and doors can be kept closed when machinery/power tools are being operated. The specific noise level of any fixed plant or equipment installed and operated on the site must not exceed 25dB LAeq(1hr) at the boundary of the nearest noise sensitive property.

Development shall proceed in accordance with the agreed details which shall be fully implemented prior to the initial beneficial use of the building hereby permitted and thereafter retained and maintained as such.

(Reason: To protect adjoining occupiers from excessive noise in accordance with the requirements of policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013 - 2031.)

6. Notwithstanding the requirements of condition 5 (above), all windows and doors shall be kept closed at all times when any noise generating equipment, machinery or power tools are in use.
(Reason - To protect adjoining occupiers from excessive noise in accordance with the requirements of policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013 - 2031.)

7. No development above foundation level shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include:

- Details of the replanting of the Devon bank on the southern boundary of the site with native species (to include details of layout, species mix and ratio, size and plant numbers);

- Details of the planting of any other trees, hedges or shrubs, including but not restricted to within the planting area to the immediate east of the building;
- Details of all areas of hard surfacing.

The landscaping scheme shall be carried out in the first planting season after commencement of the construction of the building hereby approved, 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 - To ensure that the details are planned and considered at an early stage 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.)

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/doors or other openings [other than those expressly authorised by this permission] shall be constructed.

(Reason - In order to minimise the potential for light spill so as to avoid potential adverse impacts on protected species that may be using the site in accordance with Strategies 3 (Sustainable Development) and 47 (Nature Conservation and Geology) and policy EN5 (wildlife Habitats and Features) of the Adopted East Devon Local Plan 2013-2031.)

9. There shall be strictly no external lighting of the site or building.

(Reason - In order to minimise the potential for light spill so as to avoid potential adverse impacts on protected species that may be using the site, in accordance with Strategies 3 (Sustainable Development) and 47 (Nature Conservation and Geology) and policy EN5 (wildlife Habitats and Features) of the Adopted East Devon Local Plan 2013-2031.)

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no works within the Schedule Part 1 Class E for the provision within the extended area of curtilage hereby permitted of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such.

(Reason - To enable the local planning authority to retain control over future development in order to protect 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.)

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), no fences,

gates or walls shall be erected within the extended area of curtilage hereby permitted.

(Reason - To enable the local planning authority to retain control over future development in order to protect 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.)

12. Development shall proceed in accordance with the recommendations of the Preliminary Ecological Appraisal dated November 2022 and prepared by EcoLogic Consultants.

(Reason - In the interests of enhancing the biodiversity values of the site and maintaining the favourable conservation status of protected species that may be using the site, in accordance with Strategies 3 (Sustainable Development) and 47 (Nature Conservation and Geology) and policy EN5 (wildlife Habitats and Features) of the Adopted East Devon Local Plan 2013-2031.)

13. The development shall be carried out in accordance with the submitted flood risk assessment (Ref. December 2022/Dennis Gedge Consulting Engineer) and the following mitigation measures it details:

o Finished floor levels shall be set no lower than 43.11 metres above Ordnance Datum (AOD).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

(Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with policy EN21 (River and Coastal Flooding) of the East Devon local Plan 2013-2031 and guidance on managing flood risk set out in the National Planning Policy Frameworks and accompanying Planning Practice Guidance.)

NOTE FOR APPLICANT

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 positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Plans relating to this application:

02 F	Proposed Floor Plans	14.02.23
03 F	Block Plan	21.12.22
04	Location Plan	21.12.22

01 F	Proposed Elevation	21.12.22
preliminary (221015 rev 00)	Ecological Assessment	21.12.22
	Flood Risk Assessment	21.12.22
010	Sections	07.02.23
01G	Proposed Elevation	07.02.23

List of Background Papers

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

Regulation 63 – Habitats Regulations Assessment

**Stage 1: Screening for Likely Significant Effect on the Beer Quarry and
Caves SAC**

Part A: The proposal

1. Type of permission/activity:	Change of use of land to garden and construction of building to form artist studio/workshop and garden machinery store for use incidental to the enjoyment of the main dwellinghouse and associated works, including retention of earthworks, level changes and Devon Bank; hardsurfacing, and; installation of gates and landscaping.
2. Application reference no:	22/0395/FUL
3. Site address: Grid reference:	The Oaks, Holyford Lane, Colyford, Devon, EX24 6HW
4. Brief description of proposal:	<ul style="list-style-type: none"> • Type of development It is proposed to develop the site by constructing a rectangular plan building measuring approximately 8 m by 11 m, to be utilised as an art studio, workshop and garden machinery store with associated toilet facility, while the remainder of the site will be utilised as a garden serving the property. • Distance to the European site 3.2 km • Is the proposal site within a consultation zone (landscape connectivity, core sustenance, pinch point, hibernation sustenance zone) Bat consultation areas: <ul style="list-style-type: none"> • Greater Horseshoe Sustenance Zone; • Greater Horseshoe landscape Connectivity Zone; • Key Lesser Horseshoe Sustenance Zone (associated with: key lesser horseshoe roosts located immediately north and west of Colyford); • Lesser Horseshoe Landscape Connectivity Zone; • Bechstein's Bat Sustenance Zone; and, • Bechstein's Bat Landscape Connectivity Zone. • Size The development area (redline boundary): 0.07 ha • Current land use (habitat type and immediately adjacent habitat types) The proposed development area (redline boundary) includes areas of area of tall ruderal habitat, dense bramble scrub, scattered shrubs, a recently constructed hedgebank supporting a series of recently planted native and exotic shrub species, small areas of garden waste, areas of gravel and a wet ditch. The full extent of the land ownership (blueline boundary) includes an extended garden, private dwelling including trees, grassland and garden borders. The site is located approximately 0.8 km to the west of the village of Colyford, with gardens and residential dwellings to the north and east and agricultural land with small woodlands and hedgerows to the south and west. • Timescale c. 1 year construction project. • Working methods

	Standard construction methods relevant to small construction site/project.
5. European site name	Beer Quarry and Caves SAC (BQ&CSAC) – SAC EU Code UK0012585
<p>6. Qualifying Features and Conservation Objectives:</p> <p>Ecological characteristics associated with the features (including those associated with the site, and information on general trends, issues or sensitivities associated with the features if available).</p>	<p>Annex II species that are a primary reason for selection of this site</p> <ul style="list-style-type: none"> • 1323 – Bechsteins bat (<i>Myotis bechsteinii</i>). This complex of abandoned mines in south-west England is regularly used as a hibernation site by small numbers of Bechstein’s bat <i>Myotis bechsteinii</i> as well as an important assemblage of other bat species.) <p>Annex II species present as a qualifying feature, but not a primary reason for site selection</p> <ul style="list-style-type: none"> • 1303 – Lesser horseshoe bat (<i>Rhinolophus hipposideros</i>) • 1304 – Greater horseshoe bat (<i>Rhinolophus Ferrumequinum</i>) <p>Conservation Objectives (Natural England 27/11/2018): <i>“With regard to the SAC and the natural habitats and/or species for which the site has been designated (the ‘Qualifying Features’ listed below), and subject to natural change;</i></p> <p><i>Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;</i></p> <ul style="list-style-type: none"> • <i>The extent and distribution of qualifying natural habitats and habitats of qualifying species</i> • <i>The structure and function (including typical species) of qualifying natural habitats</i> • <i>The structure and function of the habitats of qualifying species</i> • <i>The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely</i> • <i>The populations of qualifying species, and,</i> • <i>The distribution of qualifying species within the site.</i> <p><i>These Conservation Objectives should be read in conjunction with the accompanying Supplementary Advice document (where available), which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.”</i></p> <p>The designated area of the SAC is relatively small and comprises the quarry and caves and the immediately surrounding areas. However, the qualifying features (the bat populations) are dependent upon a much wider area outside the SAC boundary which provides foraging habitat and commuting routes and supports other critical roosts. Protection of key areas of habitat in the area is therefore essential in order to maintain and enhance the favourable conservation status of the qualifying features.</p>

7. Ecological survey
Summary of effort and findings

Name of documents containing ecological survey information:

Preliminary Ecological Appraisal, The Oaks, Holyford Lane, Colyford, Devon, EX24 6HW. Ecologic 2022.

Summary of survey effort (no. transects, static detector deployments and bat emergence surveys, if applicable): N/A

Summary of relevant findings and Bat Activity Index (number of bat passes from greater and lesser horseshoe bats – note that Bechstein passes are unlikely due to low amplitude, flight patterns and cryptic call parameters):
N/A

Relevant figure excerpts from document (maps, tables, if relevant/concise):

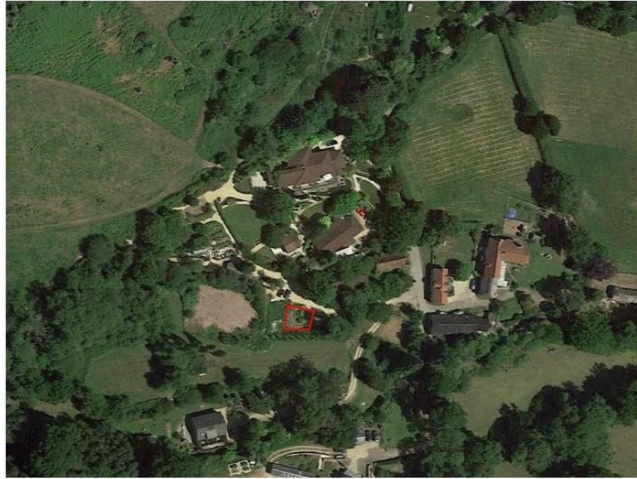


Figure 1. Aerial plan of site location



Figure 2. Site habitat plan



Figure 3. The proposed building

Part B: Screening assessment for Likely Significant Effect – In absence of proposed mitigation

<p>8. Is this application necessary to the management of the site for nature conservation?</p>	<p>The application is not required for management of Beer Quarry & Caves SAC</p>																			
<p>9. What BQ&CSAC consultation zones is the proposal within (insert “X”)?</p> <p><i>Refer to the Beer Quarry and Caves SAC Habitats Regulations Assessment Guidance document and online mapping</i></p>	<table border="1"> <tr> <td>10 km GHB Landscape connectivity zone</td> <td>X</td> </tr> <tr> <td>4 km GHB Sustenance zone</td> <td>X</td> </tr> <tr> <td>2 km GHB Hibernation sustenance zone</td> <td></td> </tr> <tr> <td>11.2 km LHB Landscape connectivity zone</td> <td>X</td> </tr> <tr> <td>2.5 km LHB Sustenance zone</td> <td>X</td> </tr> <tr> <td>1.2 km LHB Hibernation sustenance zone</td> <td></td> </tr> <tr> <td>10.25 km Bechstein’s Landscape connectivity zone</td> <td>X</td> </tr> <tr> <td>2.5 km Bechstein’s sustenance zone</td> <td>X</td> </tr> <tr> <td>Pinch point</td> <td></td> </tr> </table>	10 km GHB Landscape connectivity zone	X	4 km GHB Sustenance zone	X	2 km GHB Hibernation sustenance zone		11.2 km LHB Landscape connectivity zone	X	2.5 km LHB Sustenance zone	X	1.2 km LHB Hibernation sustenance zone		10.25 km Bechstein’s Landscape connectivity zone	X	2.5 km Bechstein’s sustenance zone	X	Pinch point		
10 km GHB Landscape connectivity zone	X																			
4 km GHB Sustenance zone	X																			
2 km GHB Hibernation sustenance zone																				
11.2 km LHB Landscape connectivity zone	X																			
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1.2 km LHB Hibernation sustenance zone																				
10.25 km Bechstein’s Landscape connectivity zone	X																			
2.5 km Bechstein’s sustenance zone	X																			
Pinch point																				
<p>10. Summary assessment of potential impacts to Qualifying Features of the European site, in the <u>absence</u> of mitigation measures.</p> <p>Consider scale, extent, timing, duration, reversibility</p>	<p><i>A – Landscape (large) scale connectivity impacts</i></p> <p><i>B - Direct impacts on the SAC roost or other key roost(s)</i></p>	<p>N/A</p> <p>The development site is c. 0.07 ha, comprising of an artist studio/workshop and garden machinery store, located south of a private garden within the hamlet of Holyford.</p> <p>N/A</p>																		

<p>and likelihood of the potential effects.</p> <p><i>Impacts of these types are considered to result in result in a Likely Significant Effect (LSE) on the SAC. Refer to the flow chart on page 19 of the Beer Quarry and Caves SAC Habitats Regulations Assessment Guidance document</i></p> <p>If the proposal is located in a Landscape Connectivity Zone (LCZ) ONLY, then the only impact to result in an LSE is “A – Landscape scale connectivity impacts”.</p> <p><i>Consider construction phase and operational phase. For some proposals, it may also be necessary to consider de-commissioning and after-use.</i></p>	<p><i>C - Change in habitat quality and composition (loss or change in quality of foraging habitat)</i></p>	<p>The development is within a small area adjacent to the curtilage of an existing dwelling, removing a very small area of tall ruderal habitat including invasive plant species.</p>
	<p><i>D - Severance or disturbance of linear features used for navigating or commuting</i></p>	<p>N/A</p>
	<p><i>E - Disturbance from new illumination causing bats to change their use of an area/habitat</i></p>	<p>The proposed development is to construct a new artist’s workshop and garden machinery store. The proposed development will only include internal lighting. The development will be partially sunk below surrounding ground levels, further reducing any external light spill. No external lighting is proposed.</p>
	<p><i>F - Disturbance to or loss of land or features secured as mitigation for BQ&CSAC bats from previous planning applications or projects</i></p>	<p>N/A</p>
	<p><i>G – Loss, damage, restriction or disturbance of a pinch point</i></p>	<p>N/A</p>
	<p><i>E - Other impacts – e.g. physical injury by wind turbines or vehicles</i></p>	<p>N/A</p>
<p>11. Potential for in-combination effects (<i>other permissions granted and proposals in the area that could result in impacts when assessed in combination – review planning permissions in the vicinity with similar impacts</i>)</p>	<p>The application is small scale and low-impact in nature.</p> <p>Minimal/negligible impacts are considered to arise regarding tall ruderal habitat removal (0.07 ha), and occasional light spill from the internal lighting. Consequently, the application could represent a minimal/negligible impact.</p>	
<p>12. Natural England consultation comments (if available)</p>	<p>N/A</p>	
<p>Part C: Conclusion of Screening</p>		
<p>13. Is the proposal likely to have a significant effect ‘alone’ or ‘in</p>	<p>East Devon District Council concludes that, in the absence of mitigation measures, a Significant Effect on the Beer Quarry and Caves SAC is likely, either ‘alone’ or ‘in-combination’ with other plans and projects.</p> <p>An Appropriate Assessment of the proposal will therefore be necessary.</p>	

<p>combination' on a European site?</p> <p><i>Refer to the flow chart in the Beer Quarry and Caves SAC Habitats Regulations Assessment Guidance document</i></p>	
<p>Local Authority Officer Date</p>	<p>Charlie McCullough 16.03.23</p>

The Conservation of Habitats and Species Regulations 2017

Regulation 63 – Habitats Regulations Assessment

Stage 2: Full Appropriate Assessment of effects on the qualifying features of the Beer Quarry and Caves SAC

Part D: Assessment of Impacts with Mitigation Measures

NB: In undertaking the Appropriate Assessment, the LPA must ascertain whether the project would adversely affect the integrity of the European site. The Precautionary Principle applies, so to be certain, the Authority should be convinced that no reasonable scientific doubt remains as to the absence of such effects.

14. Assessment of impacts taking account of mitigation measures included in the proposal and possible additional restrictions

Applicant's proposed mitigation – Provide document reference numbers and titles below:

Potential LSE (as identified in section 10. A-H)	Avoidance/Mitigation/Compensation measures proposed <i>Consider both Construction and Operational Phases, and monitoring requirements.</i>	Competent Authority conclusion regarding effectiveness of mitigation and residual LSE <i>Consider how measures would be implemented, how certain EDDC is that measures will remove LSE, how long it will take for measures to take effect, monitoring requirements and changes that would be made if monitoring shows failure of measures.</i>	Secured by
14. A - <i>Landscape (large) scale connectivity impacts</i>	N/A		
14. B - <i>Direct impacts on the SAC roost or other key roost(s)</i>	N/A		
14. C - <i>Change in habitat quality and composition</i>	The development is restricted to a small area adjacent to the curtilage of an existing dwelling, removing a very small area of tall ruderal habitat including invasive plant species and introducing a new artist's studio workshop (ancillary to the residential use of the adjoining site).	The loss of the small area of habitat is considered to be mitigated by the proposed enhancement of native planting to the southern hedgebank by planting this up with native broadleaved shrub species and removing existing non-native	Landscaping condition

<i>(loss or change in quality of foraging habitat)</i>	<p>The retained habitats are to be enhanced by:</p> <ul style="list-style-type: none"> - Restocking of the southern hedgerow with native broadleaved tree/shrub species and removing the cherry laurel; and, -Removal of non-native invasive species from the full extent of the site area, including: Himalayan balsam, montbretia and cherry laurel. <p>The non-native invasive species are to be appropriately removed and eradicated from the site by a professional prior to/or at the commencement of any development works.</p>	species. This would enhance this feature as a potential bat feeding and commuting route.	
14.D - Severance or disturbance of linear features used for navigating or commuting	N/A		
14.E – Disturbance from new illumination causing bats to change their use of an area/habitat	<p>The proposed development is to construct a new artist’s workshop and garden machinery store. The proposed development would only include internal lighting with no window openings proposed on the southern elevation facing the hedgebank.</p> <p>The proposed building is also sunk into the site and therefore partially below adjoin ground levels, further reducing the potential for lightspill.</p> <p>No external lighting is proposed.</p> <p>Internal lighting is to be installed sensitively, to avoid illuminating any areas beyond the building footprint or its immediate surround.</p> <p>Internal lighting is to be recessed utilising LED and/or low-pressure sodium luminaires instead of mercury or metal halide</p>	The building is proposed for an ancillary residential use and where its lighting can be suitably controlled (including prevention of any external lighting) by condition to avoid likely significant effect.	Conditions restricting installation of any new external lighting or new openings on the southern elevation of the building.

	lamps. This type of lighting can be utilised more directionally and will reduce the range of light wavelengths emitted.		
14.F - <i>Disturbance to or loss of land or features secured as mitigation for BQ&CSAC bats from previous planning applications or projects</i>	N/A		
14.G – <i>Loss, damage, restriction or disturbance of a pinch point</i>	N/A		
14.H - <i>Other impacts – e.g. physical injury by wind turbines or vehicles</i>	N/A		

Part E. In-combination impacts	
15. List of plans or projects with potential cumulative in-combination impacts	There are no known projects in the immediate vicinity of the site likely to give rise to in-combination impacts.
16. How impacts of current proposal combine with other plans or projects individually or in combination	N/A
Part F: Further Information	
17. Compliance with current East Devon Local Plan <i>List relevant environmental policies/ strategies and how this proposal achieves or opposes these policies/ strategies</i>	<p>The EDDC Local plan (2013 to 2031) contains a number of environmental policies, of which the following are relevant:</p> <ul style="list-style-type: none"> • Strategy 5 (Environment); • Strategy 47 Nature Conservation and Geology); and, • Policy EN5 (Wildlife Habitats and Features). <p>The proposal complies with these policies/strategies through:</p> <ul style="list-style-type: none"> • Minimising the loss, and avoiding fragmentation, of habitats; by maintaining and strengthening the hedgebank on the southern boundary • Including enhancement of natural habitats (hedgerow restocking & non-native invasive species removal); and, • Would not give rise to (direct or indirect) impact on internationally/nationally designated sites.
18. Does the proposal take into account measures agreed at outline or pre-app stages (if applicable)	Yes
19. Does the proposal take into account Natural England consultation responses, and include suitable	N/A

measures as identified in the Natural England consultation? (if applicable)	
Part G. Conclusion of Appropriate Assessment - The Integrity Test	
<p>20. List of avoidance/mitigation/compensation measures and safeguards to be covered by condition or planning obligations (Unilateral Undertaking or S106)</p>	<p>List of avoidance, mitigation and compensation measures, as per section 14:</p> <ul style="list-style-type: none"> - Restocking of the southern hedgerow with native broadleaved tree/shrub species and removal of cherry laurel; -Removal of non-native invasive species from the full extent of the site area, including: Himalayan balsam, montbretia and cherry laurel. Such species to be appropriately removed and eradicated from the site by a professional prior to/or at the commencement of any development works. -Internal lighting only with no window openings proposed on the southern elevation facing the hedgebank. Lighting to be installed to be recessed and to utilise LED and/or low pressure sodium luminaires so as to avoid illuminating any areas beyond the building footprint or its immediate surround. -The proposed building sunk into the site and therefore partially below adjoining ground levels, further reducing the potential for lightspill. -No external lighting proposed. <p>Control over the landscaping requirements and lighting restrictions to be controlled by planning conditions.</p>
<p>21. Conclusion of integrity test.</p>	<p>EDDC concludes that Adverse Effects on the Integrity of Beer Quarry and Caves SAC qualifying features can be ruled out, providing that the avoidance, mitigation and compensation measures detailed in section 20 are carried out in full and secured by the proposed appropriate conditions.</p> <p>These mitigation measures are considered to remove potential Likely Significant Effects and provide certainty beyond reasonable scientific doubt that the proposals would have no impact on the Integrity of the SAC.</p>
<p>22. Completed by: Date:</p>	<p>Charlie McCullough 16.03.23</p>

23. Natural England comments on this Appropriate Assessment:

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED.

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Beer Quarry and Caves Special Area of Conservation (SAC).

Please be advised that, on the basis of the mitigation outlined in the Appropriate Assessment being secured, Natural England concurs with your authority's conclusion that the proposed development will not have an adverse effect on the integrity of Beer Quarry and Caves SAC.

24. Natural England

Officer:

Neil Sherwood

30.03.2023

Date: