

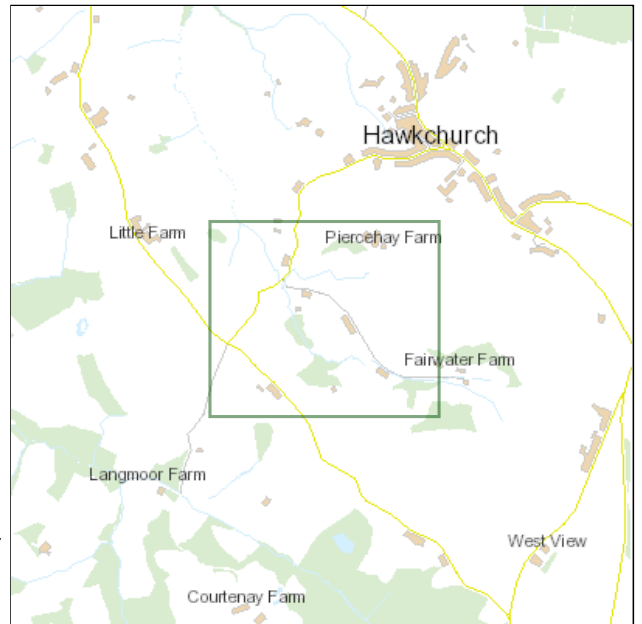
Ward Yarty

Reference 23/0116/FUL

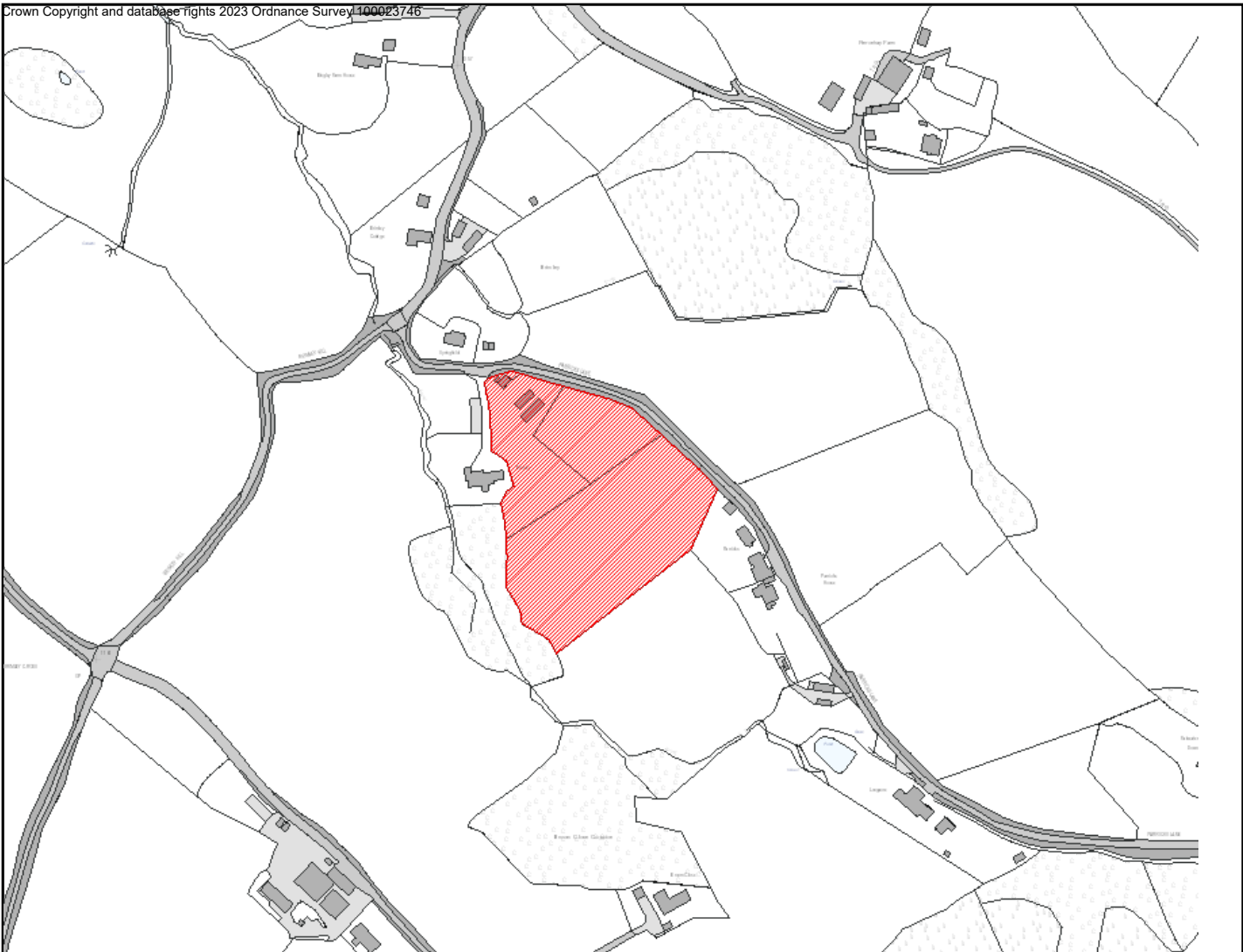
Applicant Mrs Ann Barrett

Location Land At Parricks Lane Hawkchurch EX13 5XB

Proposal Change of use of agricultural land and buildings to private equestrian use, construction of a manège and construction of a replacement for building 2 (retrospective). Building 1 to be used as a feed store and shelter for visiting vets, farriers, etc., Building 2 to be used as a hay barn and Building 3 to be used as a field shelter



RECOMMENDATION: Retrospective Approval (conditions)



		Committee Date: 18.07.2023
Yarty (Hawkchurch)	23/0116/FUL	Target Date: 06.04.2023
Applicant:	Mrs Ann Barrett	
Location:	Land At Parricks Lane Hawkchurch	
Proposal:	Change of use of agricultural land and buildings to private equestrian use, construction of a manège and construction of a replacement for building 2 (retrospective). Building 1 would be used as a feed store and shelter for visiting vets, farriers, etc., Building 2 would be used as a hay barn and Building 3 would be used as a field shelter	

RECOMMENDATION: Retrospective Approval (conditions)

EXECUTIVE SUMMARY

This application is before the Planning Committee because the recommendation is contrary to the views of the former and current Ward Members.

This proposal is for equestrian development that requires a countryside location and would be small in scale. It can be accommodated without adversely affecting the agricultural character of its surroundings. Whilst there would be some visual impacts, these would be modest and additional landscaping has been secured to provide an enhancement.

Whilst diversification activity is supported by policy E4 of the Local Plan, including the keeping of horses, this proposal would not support the viability of a farming enterprise and therefore there would be some policy conflict. However, the proposal would provide benefits to the rural economy in other ways and therefore the conflict is not considered to be material.

Matters including wildlife impacts, pollution, drainage and impact on trees have been considered and found to be acceptable. Many of the concerns raised by objectors are controlled by legislation outside the planning regime.

The proposal is appropriately sited on lower grade agricultural land in a non-designated landscape where environmental impacts can be suitably controlled by way of conditions and through other control regimes. In the absence of any material conflict with policy or harm to the local environment, the proposal is acceptable.

CONSULTATIONS

Local Consultations

Former Ward Member for Yarty - Cllr Paul Hayward

I am concerned over the nature of this application. It is evidently retrospective and whilst that is not a reason to refuse per se, it has resulted in EDDC landscape and environmental officers being unable to carry out thorough biodiversity and landscape assessments of the land prior to the development taking place.

There are issues with drainage as yet unresolved as I understand the field to be extremely waterlogged in wet weather. The addition of new outbuildings would seem out of place and I do have reservations about the need for this facility in such a remote location.

On that basis, I regret that I oppose this development and would propose REFUSAL and the reinstatement of the land to its former condition by way of the enforcement process.

Ward Member for Yarty – Cllr Duncan Mackinder

I would like to record that I very much agree with the comments of made by Cllr Paul Hayward, my predecessor as district councillor for the Yarty ward, on this application. I find the lack of opportunity to perform any form of meaningful landscape and ecological assessment to inform decision on this application highly regrettable. Therefore I too oppose this development and would recommend REJECTION and the reinstatement of the land to its former condition by way of the enforcement process.

Clerk To Hawkchurch Parish Council

Hawkchurch Parish Council cannot support this application. We are concerned about the possible environmental damage that has been done but cannot now be properly evaluated as this is a retrospective application.

There is some visual impact and we are not clear why such extensive facilities are needed for just three horses. we are very concerned about the impact on drainage and the possibility of environmental contamination, especially as there is a bore hole (and by default therefore a source protection zone (SPZ)) near the site.

We recommend that this application should not be approved unless and until:

- the applicants can demonstrate drainage will be dealt with to ensure that there is no significant impact from surface water run off from the manège surface on neighbouring land and watercourses;
- that there will be no contamination of water supplies particularly with reference to any SPZs in the area. If necessary the environment agency should be consulted;
- the applicants can demonstrate how waste products will be dealt with safely and not result in environmental health issues; and

- a landscaping plan is agreed (including screening and any changes to the post-rails etc. that would reduce visual impact).

If approved we recommend that this is conditional on the following:

- no lighting
- ongoing drainage management
- ongoing waste control management
- ongoing landscaping maintenance
- restricted to private use only (no commercial use at all as this would impact access and local amenity)
- no further expansion or changes without additional permission

Other Representations

Eleven objections and one representation have been received raising the following concerns:

- Harm to wildlife and lack of a survey
- Failed to follow planning rules
- Burning on site
- Use of weed spray
- No lighting should be allowed
- The access rights are not being followed
- The fencing should be removed
- It is visually harmful
- Drainage detail is lacking
- Run-off could cause pollution
- The ground is unsuitable for an arena
- There is insufficient land for three horses
- The proposed landscaping would not address the harm
- Overlooking

One letter of support has been received commenting that the horses and the site are well cared for.

Technical Consultations

None.

PLANNING HISTORY

Reference	Description	Decision	Date
86/P0526	Erection Of 2 Bungalows.	Refusal	29.04.1986
89/P0838	Conversion Of Livestock Building With Dairy To Bungalow.	Refusal	29.06.1989

18/0955/FUL	Retention of widened field entrances and hardstanding	Approval with conditions	20.06.2018
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POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

E4 (Rural Diversification)

EN14 (Control of Pollution)

EN18 (Maintenance of Water Quality and Quantity)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

Government Planning Documents

NPPF (National Planning Policy Framework 2021)

National Planning Practice Guidance

Site Location and Description

The site is located about 600 metres to the south west of Hawkchurch amongst a low density string of dwellings along Parricks Lane and Brimley Road. It is not within an AONB and there are no heritage assets nearby. The site is not in a flood zone but part of the field to the east of the neighbouring dwelling, Brimley Farmhouse, as well as land around Brimley Farmhouse itself, is at risk of surface water flooding.

Parricks Lane is an unclassified single track no through road and connects with public footpaths leading to Hawkchurch. Trees and hedgerows surround much of the field but the site is on a slope and there are views from Brimley Hill, the nearest road to the west and from parts of the footpath network. At the entrance to the site there are three buildings and a yard. A manège has been constructed within the field and tape fencing has been used to divide the field.

ANALYSIS

Planning permission is sought for the change of use of a 1.5ha field to private equestrian use as well as for the construction of a manège and a replacement building. All of the development has already taken place. In total there are three buildings on the land and they would all be used for purposes associated with the equestrian use of the land, such as stabling and feed storage.

Strategy 7 (Development in the Countryside) of the Local Plan supports development that is in accordance with a specific local or neighbourhood plan policy. Although there is no neighbourhood plan, policy E4 (Rural Diversification) of the Local Plan

supports an expansion of the range of activities traditionally undertaken in the countryside. This includes "The keeping of animals which are not traditional agricultural livestock, including horses and donkeys", as set out in the preamble to the policy.

Policy E4 is subject to a number of conditions and these are addressed in turn below.

1. The proposal is complementary to, or compatible with, the agricultural operations in the rural area or on a farm and is operated as part of an overall holding.

Given that the development is small in scale (currently accommodating three horses), it has no material effect on the agricultural activity taking place in the surrounding countryside.

Addressing the second part of this criterion, the equestrian activity in this case is not operated as part of a farm holding and therefore is not contributing to the viability of a farm business. Nor does it comprise "the development and diversification of agricultural and other land-based rural businesses" as supported by paragraph 84b of the NPPF as it is not operated on a commercial basis.

Notwithstanding this conflict, the use requires a rural location and contributes to the rural economy in other ways through, for example, the need for veterinary services, feed supplies and tools and equipment to maintain the land and buildings. On that basis there is not considered to be a material conflict with local or national policy.

2. The character, scale and location of a proposal are compatible with its landscape setting and any area of nature conservation importance.

The local landscape is characterised in the East Devon Landscape Character Assessment as 'upper farmed and wooded valley slopes' and is in a transitional area between the Axe valley and Lamberts Castle, part of the Wootton Hills. Whilst not designated as an AONB, it is an attractive landscape of irregular fields, woodland and winding lanes with an intimate feel away from high ground. Traditional farming activity is the dominant use of the land.

From Brimley Hill the application site is between and behind two quite prominent dwellings (Springfield and Brimley Farmhouse) on a shallow hillside dominated by hedgerow trees and small areas of woodland. Notwithstanding the tree cover, there are glimpses of fields amongst the trees, including uninterrupted views of parts of the application site.

The three buildings on the site are not particularly prominent between the neighbouring dwellings and are an established feature of the landscape. In particular, the replacement building is very similar in scale and appearance to the original building and those either side and is therefore an appropriate replacement.

From outside the site, both from Brimley Hill and the lane which wraps around the north and east of the site, the manège and the tape fencing are quite visible and

have a minor detrimental visual impact when seen in the context of surrounding agricultural fields. However, the site is comprised of a single field and is a small component of the surrounding, more open, landscape. Whilst it would not be possible (or appropriate in landscape terms) to completely screen the field, some of the visual effects could be reduced with a landscaping scheme to enhance the boundaries. This would be in line with the Landscape Character Assessment management guidelines which suggest implementing measures to "Promote traditional hedgerow management techniques, and repair gaps in degraded hedgerows."

In terms of character, equestrian uses do not feature strongly in the local landscape. This is positive in relation to the proposed development because it means that there is scope for small scale equestrian development to be introduced without changing the character of the wider landscape.

To address the landscape impacts, a landscaping scheme has been provided which shows suitable infill planting and new trees and hedgerows within the site. This will not hide the development but it would provide an appropriate degree of landscape enhancement to offset the visual effects of the use. Subject to implementing this landscaping scheme, the effect on the character and visual appearance of the landscape would be acceptable.

Addressing the final part of this criterion, the site is not within or near any designated areas of nature conservation importance, other than the River Axe SAC which is addressed separately below.

3. The proposal would not use the best and most versatile agricultural land.

The land is grade 4 agricultural land and is therefore not classed as best and most versatile. There would be no conflict with this criterion or Policy EN13 as a result.

4. The likely amount of traffic generated by the proposal could be accommodated on the local highway network without harming road safety and without adverse visual impact upon the surrounding countryside.

Although the lanes are narrow leading to the site, the amount of traffic generated would be comparable to an agricultural use and can be accommodated on the road network without endangering other road users.

5. Any new building (and associated parking and other structures/storage) does not detract from the historic environment is modest in scale and is sited in or adjacent to an existing group of buildings and is of a compatible design and will blend into the landscape in terms of design, siting and materials.

The replacement building is sited between two retained buildings and is similar in scale and appearance to the original building. It is compatible with its surroundings in all respects.

The manège is about 30m to the south west of the nearest building and is therefore reasonably well related. Although a manège is not a traditional feature of the farming

landscape, it is a common enough site in the countryside that it would not appear out of place. Moreover, it is modest in area and height and has been constructed without excessive changes to ground levels. Any encroachment into the root protection area of the nearby tree would be minimal and unlikely to affect the health of the tree. Additional tree planting would be secured through the proposed landscaping scheme.

Concerns have been raised about the effect of external lighting and it is agreed that this has the potential to be intrusive in the local landscape in the hours of darkness. A condition controlling lighting is therefore reasonable.

6 The proposal would not cause noise, air or water pollution or flooding nor harm the amenity of local residents.

The level of noise associated with the use is unlikely to be materially higher than if the field were used for keeping livestock. Whilst it is accepted that there will be times when conversations between people in the field would take place, for example between the applicant and their vet or other advisors, these would be infrequent and would not create intrusive levels of noise. Likewise in respect of the manège. Similarly, the use of the land for equestrian purposes would not result in overlooking of neighbouring land that would be intrusive or harmful to amenity.

The use would not give rise to abnormal levels of air pollution that require specific measures to be put in place to avoid environmental harm. Smoke from bonfires could qualify as a statutory nuisance and there are adequate protections under Environmental Health legislation to deal with any issues that might arise.

There are no source protection zones near the site (the nearest is 1.8km to the north west), nor any drinking water protected areas or safeguard zones. Groundwater vulnerability is classed as 'low' (defined as areas that provide the greatest protection to groundwater from pollution). While some dwellings in the locality may have private water supplies, the risk of contamination is considered to be low based on the information available. Furthermore, it is the applicant's responsibility to manage the land and waste from the land to ensure the protection of private water supplies and this is supported by other legislation and guidance beyond the planning regime.

In respect of flooding, Soilscales data indicates that the site and surrounding land has impeded drainage (corroborating some of the comments made on the application). However, the proposed use would not inevitably raise the risk of flooding to land below the site and good land management practices can be helpful in this regard. An informative can be included within the decision to direct the applicant to relevant advice from Devon County Council, the Lead Local Flood Authority (<https://www.devon.gov.uk/floodriskmanagement/document/land-management-guidance/>).

More generally, the Government has provided advice to horse owners on dealing with waste (and other related matters) at www.gov.uk/keeping-horses. Given that there are protections already in place, there is no need for other measures to be put in place through the planning process.

7. All new agricultural and agricultural related buildings within 1 kilometre of sighting of barn owls or signs of their activity with a ridge height of 3 metres or more shall make suitable provision for the nesting of barn owls, whether or not they have been observed at the site.

The National Biodiversity Network Atlas includes a record of a barn owl sighting about 1.3km to the north west of the site in 2007. One of the public comments on this application has also made reference to sightings of a barn owl on or near the site more recently. Although the recent sighting is not verified (for example, through the British Trust for Ornithology), it is reasonable to require the installation of a barn owl box. Responding to this point the applicant has advised "An owl box has been in situ for a number of years in a mature tree behind Brimley Farmhouse and on the border between the two properties." Notwithstanding the existing provision, the applicant proposes to install two further barn owl boxes in appropriate locations and this would be secured as part of the landscaping scheme.

Other matters

The site is within the catchment of the River Axe SAC which is subject to the advice issued by Natural England on nutrient neutrality. In broad terms the advice is that agricultural development which could lead to an increase in herd size should consider the effects of nutrient pollution. There is no specific advice in relation to equestrian uses but there is nothing to indicate that the proposed use would be more polluting than if the land were used for keeping traditional livestock, which could be carried out without the need for planning permission. Furthermore, the building is a replacement and would not increase the amount of accommodation available for livestock. It is therefore concluded that a likely significant effect on the SAC can be ruled out in this case.

Concerns have been raised about the clearance of the site and loss of wildlife habitats. Removing vegetation does not require planning permission but it is the applicant's responsibility to comply with the law protecting wildlife in doing so. Whilst the concerns of the objectors are appreciated, they are not directly relevant to the development for which permission is sought.

A comment has been made about the use of the access but this is a private matter between the applicant and the relevant land owner.

It has also been suggested that there is insufficient land for the number of horses. This is not a relevant planning consideration and it is up to the applicant to determine what is appropriate having regard to guidance and legislation on the welfare of animals.

CONCLUSION

The proposed development is compatible with most aspects of Strategy 7 and Policy E4. Where conflicts exist, they are minor owing to the small scale of the development. The proposal requires a countryside location, is appropriately sited on lower grade agricultural land in a non-designated landscape where environmental impacts can be suitably controlled by way of conditions and through other control

regimes. In the absence of any material conflict with policy or harm to the local environment, the proposal is acceptable.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)
2. The landscaping scheme described in the Landscape Enhancement Plan and shown in the accompanying Landscape Plan hereby approved shall be implemented in accordance with the timetable contained therein unless any variation is first submitted to and approved in writing by the Local Planning Authority. The landscaping shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.
(Reason - In the interests of preserving and enhancing the character and appearance of the area in accordance with Strategy 46 - Landscape Conservation and Enhancement and AONBs and Policies D1 - Design and Local Distinctiveness and D2 - Landscape Requirements of the East Devon Local Plan 2013-2031.)
3. Within six months of the date of this decision at least one barn owl box shall be erected in one or more of the locations specified in the Landscape Enhancement Plan hereby permitted. The box shall thereafter be retained and maintained for the lifetime of the development.
(Reason - To improve nesting provision for barn owls in accordance with Policy E4 - Rural Diversification of the East Devon Local Plan 2013-2031.)
4. No external lighting shall be erected to illuminate the manège or land/buildings to which this permission relates unless details of such have first been submitted to and approved in writing by the Local Planning Authority. Any lighting installed shall comply with those approved details.
(Reason - To prevent light pollution in order to protect the character and appearance of the countryside in accordance with Strategies 7 - Development in the Countryside and 46 - Landscape Conservation and Enhancement and AONBs and Policies D1 - Design and Local Distinctiveness and EN14 - Control of Pollution of the East Devon Local Plan 2013-2031.)
5. The development hereby approved shall be used for private equestrian purposes only and shall not be used for any commercial or business purpose, such as livery or riding stables.
(Reason - The application site in the open countryside is distanced from centres of population and a business use would require further assessment in terms of traffic movements, hours of use and disturbance from increased activities on the site in accordance with Strategy 7 - Development in the Countryside and

policies EN14 - Control of Pollution and TC2 - Accessibility of New Development of the East Devon Local Plan 2013-2031).

Statement on Human Rights and Equalities Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

This Informative confirms that this development is not liable to a CIL charge.

Any queries regarding CIL, please telephone 01395 571585 or email cil@eastdevon.gov.uk.

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Informative:

The applicant's attention is drawn to the Government advice on keeping horses, particularly the section on dealing with waste, which can be accessed here: www.gov.uk/keeping-horses.

Informative:

The applicant's attention is drawn to the advice from the Lead Local Flood Authority, Devon County Council, on managing land to reduce flood risk which can be accessed here: www.devon.gov.uk/floodriskmanagement/document/land-management-guidance/.

Plans relating to this application:

Landscaping Enhancement Plan	Landscaping	16.06.23
Landscape plan	Landscaping	16.06.23
	Location Plan	07.02.23
Building 2	Other Plans	09.03.23

List of Background Papers

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