

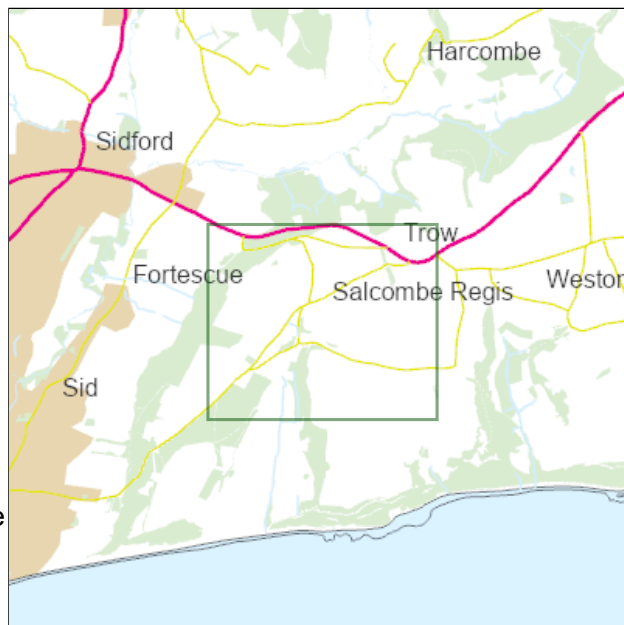
Ward Sidmouth Rural

Reference 23/0615/VAR

Applicant Mr Gary Burns (Serenity Leisure Parks Ltd)

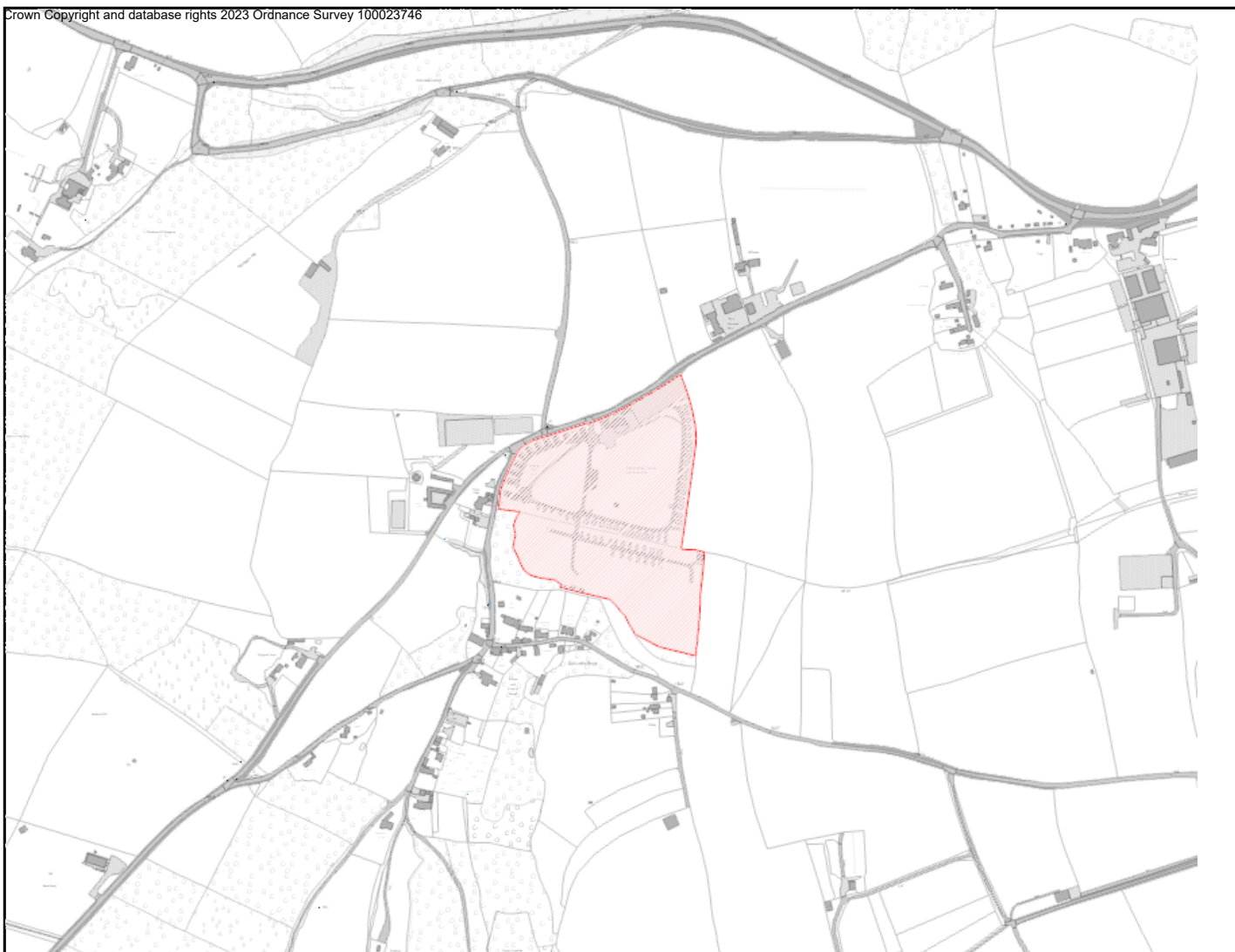
Location Salcombe Regis Camping And Caravan Park
Salcombe Regis Sidmouth EX10 0JH

Proposal Variation of condition no. 3 (Shop with residential accommodation to replace existing) of application 87/P0699 ; the building should be used solely for the permitted purpose of a residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site.



RECOMMENDATION: Approval with conditions

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		Committee Date: 26.09.2023
Sidmouth Rural (Sidmouth)	23/0615/VAR	Target Date: 17.05.2023
Applicant:	Mr Gary Burns (Serenity Leisure Parks Ltd)	
Location:	Salcombe Regis Camping And Caravan Park Salcombe Regis	
Proposal:	Variation of condition no. 3 (Shop with residential accommodation to replace existing) of application 87/P0699 ; the building should be used solely for the permitted purpose of a residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site.	

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY

This application is before members as the officer recommendation differs from the views of a Local Ward Member. The application originally sought to remove condition 3 which would have enabled the building to be used for retail purposes unrelated to the caravan park. As there is no policy support for such a use within a countryside location, the application's description was amended to vary condition 3.

Application 87/P0699 granted the construction of a two storey building to be used as a residential dwelling, site office and shop. Details submitted with the application state that, up until recently, the building was occupied by the former owners and operated as a laundrette for patrons of the caravan site. Condition 3 restricted the use of the building in conjunction with and solely for the permitted use of the caravan site. The full wording of the condition is given below;

'The building hereby permitted shall be used solely for the purpose of a residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site.'

(Reason – The site is in an area where permanent residential dwellings will not normally be accepted).'

Justification for the application stems from the way in which the new owners, Serenity Parks, operate their holiday parks which has resulted in the existing building being considered redundant. The application has prompted a number of third party objections and opposition from statutory consultees with concerns

primarily relating, but not exclusive to, the need for the condition to be removed and the impact of unrestricted residential use.

Notwithstanding this, owing to the challenges that the recent pandemic created for businesses, many have had to adapt and fundamentally alter the way in which they offer services and engage consumers. As such, it is not considered appropriate for the LPA to question the way in which Serinity Parks wish to operate the caravan park going forward nor their position with regards to whether the current building is essential to the enterprise or not.

The primary issues for consideration regarding the current application is; a) what does condition 3 control? And; b) what are the material impacts in approving the application and varying the condition to enable independent residential use of the building? With regards to point a), it is the position of officers that the building could currently be used as a shop, dwelling or office without any restriction on the extent of that use nor does the condition protect any one of those uses. With regards to residential use of the building the wording of condition 3, regardless of intentions of the LPA at the time, provides flexibility as to the type of occupation and length of tenure, however any residential use does need to be in conjunction with and solely for the permitted use of the caravan site.

Whilst the LPA is led to believe that the building was recently occupied by the site's former owners, the wording of condition 3 would enable other members of staff or even holiday makers to occupy the building. The condition does not restrict the length of an individual's stay or require occupants to be directly employed by the caravan park. Consequently, if the building were to be occupied for residential purposes separate from the operation of the caravan site, it is anticipated that the subsequent environmental impact caused by a dependency on private modes of transport would not be dissimilar to how the dwelling has been historically occupied, or, how it could be occupied within the parameters of the existing condition. Although it is anticipated that some additional movements may be incurred in order for prospective occupants to access employment opportunities elsewhere, the movements of private vehicles to and from the site and the subsequent environmental impact is anticipated to be low. In the absence of any evidence to suggest otherwise, and in having been unable to identify any demonstrable harm, it is the position of officers that the application should be approved.

In light of the above, the application is recommended for approval subject to condition 3 being reworded as follows;

“The building hereby permitted shall only be used as a shop and site office ancillary to the operation Salcombe Regis Camping and Caravan Park or as a residential dwelling.

(Reason: To protect the viability of town centres and to ensure that the Local Planning Authority retains control over the use of the building as an unrestricted retail use may give rise to additional planning issues and to comply with Strategy 7 - Development in the Countryside, Policy E5 - Small Scale Economic Development and E15 - Retail Development in Rural Areas outside Built-up Area

Boundaries of the East Devon Local Plan 2013-2031.).”

The wording ensures that if the building is to be used for commercial purposes, this is tied to the operation of the camping and caravan park. An additional condition is recommended that approves a schedule of updated elevations and floor plans, to reflect what the current scale, form and appearance of the building and a Site Plan to show dedicated parking and amenity areas.

CONSULTATIONS

Local Consultations

Parish/Town Council

UNABLE TO SUPPORT

' Members considered that this would be tantamount to creating a new dwelling within the ANOB. If it is not required for the original use, it should be demolished.

' The building was only originally allowed to support tourism in an AONB area.

' Members were concerned that not maintaining a permanent residential presence on the operating site would contravene the requirements of the Health and Safety at Work Act, 1974.

Sidmouth Rural - Cllr John Loudoun

This application is for a variation of the original determination that "The building hereby permitted shall be used solely for the purpose of a residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site. Reason: The site is in an area where permanent residential dwellings will not normally be permitted."

The building in question fulfils a range of functions, as set out in the determination, that are associated with the caravan and camping site it is located within. This building has allowed onsite support and assistance to be provided to those using it for their health, safety and welfare.

The applicants state that they are able to provide support and assistance by means of "regular visits and checks on site are undertaken by a mobile management team who cover a number of parks in a locality ensure that the quality of the park is maintained at a high level and that rules and regulations are followed. These teams are always available to customers to ensure that any emergencies or problems can be dealt with or resolved quickly and efficiently".

I do not believe that this alternative provision of support and assistance to be in keeping with the applicants' requirements to abide by the Health & Safety at Work Act 1974, which I believe is required under their site licence.

If, as the applicants contend, this property is no longer required to support the effectiveness and efficiency of this site and it is permitted to be decoupled it from the main site, then given that residential development, which this would become, is not

permitted within the AONB within which it sits, I would argue that the property would need to be demolished and its site returned to natural land.

I do not support this application whilst the site remains as a camping and caravan site.

John Loudoun
Ward Member
Sidmouth Rural

Other Representations

Third Party Objections

23 third party comments have been received, 22 have objected and 1 representation has been made.

Objection comments have raised concerns over the following;

- Lack of robust evidence to demonstrate the building is no longer needed for the running of the holiday park.
- Failure to comply with Policy H5 of the Local Plan.
- Section 73 application would alter the original description of development.
- Approval of the dwelling would permit the entire caravan site as its curtilage.
- The conditions on the original consent should be enforced.
- If the building is no longer required then it should be demolished.
- Loss of residential amenity
- Unacceptable impact on the AONB.
- Approval would lead to an increase in traffic.
- Proposal would result in residential sprawl.
- Website indicates that there is a site manager presence onsite.
- Application indicates that the newly constructed games room would be used as an office. However the building does not have permission to be used as such.
- Lack of sufficient information to make an informed decision

PLANNING HISTORY

92/P1383 – Winter Storage of Touring Caravans. APPROVED 10.12.92

93/P0035 – Use of the site for maximum of 30 touring dormobiles in lieu of tents. APPROVED 26.04.93

93/1711 – Extension to existing showers/WC building to provide additional showers. APPROVED 12.11.93.

96/P0664 – Amendment of conditions to allow 100 pitches for either tents, caravans or motor caravans. APPROVED 17.06.96

11/0123/COU – Change of use of land from amenity area to the siting of 12 static caravans for holiday use and associated access and landscape work. APPROVED 16.03.11.

16/0634/FUL – Construction of a new games room, sanitary block and toilet block and additional parking. APPROVED 11.07.16

POLICIES

Site Location and Description

Salcombe Regis Camping and Caravan Park is an established holiday park within the East Devon Area of Outstanding Natural Beauty and Coastal Preservation Area. Planning history available to the Local Planning Authority indicates that the park was created shortly before 1955. However, planning records prior to 1974 are not available as this predates the formation of East Devon District Council as a Local Authority. The site primarily offers pitches for motor homes, touring caravans and tents for holiday makers although there are a handful of static caravans within the north western corner. The land is subdivided into two distinct elements the upper northern field and a southern field.

Proposed Development

The application is submitted under Section 73 of the 1990 Act originally applied to remove condition 3 of 87/P0699 which was approved 28.05.87. However removal of the condition would enable the building to be used for unrestricted retail purposes unrelated to the caravan park. Such a proposal lacks policy support within a countryside location. As a result, the application's description was amended to vary condition 3 to enable independent residential use of the building whilst ensuring any commercial or office use would remain tied to the caravan park.

The building in question is located just east of the main entrance into the site off of the road past Sunylands.

The former consent permitted the construction of a building to be used as a shop with residential accommodation and condition 3 restricted the use of the building in conjunction with and solely for the permitted use of the caravan site. The full wording of the condition is given below;

'The building hereby permitted shall be used solely for the purpose of a residential dwelling, site office and shop in conjunction with and solely for the permitted use of the caravan site.'

(Reason – The site is in an area where permanent residential dwellings will not normally be accepted).'

Since its construction, planning approval has also been granted to extend the building. Reference 15/2183/FUL secured approval for a two storey side extension and to increase the ridge height. The approved drawings communicate an increase in the extent of the living accommodation within the building at first floor and second

floor to provide four bedrooms, boot room, laundry room and living space. The current application now seeks to vary condition 3 of the original 97' consent in order to sever the residential use of the building from the existing caravan and camping site.

Justification for Application

The application is accompanied by a statement from Serenity Leisure Parks who have recently acquired Salcombe Regis Caravan & Camping Park. The statement explains that since the Covid pandemic the way in which they run their holiday parks has changed and as a result the application building, formerly the owner's property, no longer serves a purpose to the caravan park. Modern booking systems means that customers now pay and check in to their accommodation online in advanced of arriving. Serenity Parks also state that the site also has a management office building which includes a reception, shop, staff facilities and office space approved under 16/0634/FUL.

The operations statement states that since the pandemic Serenity Parks have adapted to how parks are operated to promote social distancing and reduce risks associated with customer contact. Whilst parks are now managed remotely, it is stated that a small team of wardens, cleaners and technicians would continue to operate between sites. Access and security is controlled by CCTV and electronic fobs for entry.

Analysis

Procedural Matters

Case law has determined, as in the case of *Finny v Welsh Ministers [2019]*, a material consideration is that a Variation (S73) application cannot be used to change the original description of development. In this case removal of condition 3, which sought to tie use of the building to the camping and caravan site, would not alter the original description of 87/P0699 which permitted '*Shop with residential accommodation to replace existing*'. As such, despite third party comments to suggest otherwise, the proposals can be dealt with by means of a Section 73 application.

What Does Condition 3 Control?

Condition 3 of 87/P0699 restricts use of the building as a residential dwelling, site office and shop in conjunction with the operation of the caravan and camping site. The reason given for applying the condition was '*The site is in an area where permanent residential dwellings will not normally be accepted*'. The approved floor plans dated March 1987 (Drwg No. F/1987/243) communicate living accommodation within the two storey part of the build and a shop within the smaller, single storey element. Whilst the accommodation has been extended since, condition 3 does not control the ratio or extent of living accommodation to the shop and office space.

Whilst condition 3 ties the use of the building to the permitted use of the caravan site, it does not seek to control the type or duration of residential occupation. It is therefore anticipated that if the dwelling were to be occupied by patrons of the site,

owners of the business or staff this would not be in breach of the condition. Furthermore, if the building were to be occupied all-year round for residential purposes by either staff or holiday makers, this again would not be in breach of planning control. A number of third party comments have expressed concerns over the loss of staff accommodation for the site, one comment even requesting that the application be assessed against the provision of Policy H5 (Occupancy Conditions of Rural Workers Dwellings). However, owing to the lack of precision within the wording of condition 3, the dwelling is not restricted solely to the occupation of staff or a rural worker. As the condition does not explicitly restrict occupancy to that of a rural worker, it is not reasonable or appropriate to assess the application against Policy H5 of the East Devon Local Plan which would require the applicant to demonstrate that there is no longer a long term functional need for building to support the business, usually through marketing the premises.

Overall, despite the condition restricting the use of the building as a dwelling, office or shop, it does not restrict the extent of each use nor does it prescribe a certain floor space or make reference to a specific floor plan. As a result, the entire building or part of it could be used for any of the uses permitted.

As a result, it is considered pertinent in the assessment of the current application to consider that, if all of the building could be occupied for residential purposes for either members of staff, the owners or patrons of the caravan site all-year round, what material harm would arise if the condition were to be varied effectively severing the residential use of the building from the caravan and camping site?

Material Planning Impact of Removing Condition 3

Varying condition 3 would not result in any physical alterations to the building or its associated curtilage, therefore the application would not cause harm to the landscape value of the East Devon Area of Outstanding Natural Beauty (Strategy 46 of the LP) or the Coastal Preservation Area (Strategy 44 of the LP). Variation of the condition would enable residential occupation and use of the building independent from the caravan site and release a unit of residential accommodation into the open market. Subsequently the policy implications and material planning issues of this shall need to be considered. The application site is located in open countryside where development that requires planning permission is usually subject to restrictive rural policies.

However, the Council cannot currently demonstrate a 5 year housing land supply. Under government policy if an authority cannot demonstrate a 5 year housing land supply then the presumption in favour of sustainable development will apply as set out in paragraph 11d of the National Planning Policy Framework. This states:

“(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;*

or

- (ii) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

As a result, development constraint policies, such as Strategy 7 (Development in the Countryside) that applied built-up area boundaries to settlements, no longer carry significant weight. Proposals for residential development that are outside of these areas that are not compliant with the spatial strategy of the Local Plan should be approved unless points (i) and (ii) above apply. In the case of (i) the protected areas referred to includes AONB's, SSSI's, designated heritage assets and areas at risk of flooding among others.

Whilst the application site is located within the East Devon Area of Outstanding Natural Beauty, the proposals concern the use of an existing building. Approval of the application would not impact the landscape value of the AONB and therefore development should be approved unless the impacts are significant and demonstrably outweigh the benefits.

In this case it is anticipated that varying condition 3 would enable the building to be used as an unrestricted independent dwelling. Whilst the LPA is led to believe that the building was recently occupied by the site's former owners, the wording of condition 3 would enable other members of staff or even holiday makers to occupy the building. The condition does not restrict the length of an individual's stay or require occupants to be directly employed by the caravan park.

Consequently, if the building were to be occupied for residential purposes separate from the operation of the caravan site, it is anticipated that the subsequent environmental impacts with regards to daily movements to and from the site would be similar to how the dwelling has been occupied historically and how it could be occupied within the parameters of the existing condition. Whilst it is anticipated that some additional movements may be incurred in order for prospective occupants to access employment opportunities elsewhere, the movements of private vehicles to and from the site and the environmental impact of such movements removing the would be low.

When assessing this harm against the benefits of an additional open market dwelling to the district's housing stock within the tilted balance as required by paragraph 11d) of the NPPF, the LPA is not convinced that the environmental harm would be demonstrably significant enough to warrant refusal.

Amenity for Prospective Occupants

The residential dwelling of the existing building already has dedicated outdoor amenity areas with the southern garden enclosed by a low brick wall and timber fence. Three parking spaces are also allocated immediately forward of the shop which and located opposite a number of visitor spaces.

Access to the caravan park's storage area in the north-eastern corner runs past the boundary of the southern garden area. Whilst prospective occupants of the dwelling are likely to be impacted during periods where tourers are driven past the southern boundary when being relocated into storage, the frequency, duration and seasonality of the movements leads the LPA to consider this impact to be low.

The existing building provides ample outdoor amenity space and dedicated parking for prospective occupants. Furthermore, it is considered that independent residential use of the building can operate alongside the existing camping and caravan business without causing undue harm to the residential amenity of the dwelling. As such, the proposals are considered to meet the objectives of Policy D1 (Design and Local Distinctiveness) of the Local Plan.

Conclusion

The applicant states that the way in which the caravan park operates has changed, particularly with regards to how individuals check in at the site, making the current use of the building, which includes a reception, redundant. Despite this, a number of third party comments question whether the need for the building has genuinely ceased. However, owing to the challenges that the recent pandemic created for many businesses, many have had to adapt and fundamentally alter the way in which they offer services and engage consumers. As such, it is not considered appropriate for the LPA to question the way in which Serenity Parks wish to operate the caravan park going forward nor their position with regards to whether the current building is essential to the enterprise or not.

Notwithstanding this, the Operations Statement indicates that the building approved under 16/0634/FUL is currently used as a site reception, shop, staff facilities and office space, however, the wording of condition 4 of that consent restricts use of the building to the following;

"The use of the buildings hereby permitted shall be used only as a games room, tourist information pavilion and sanitary facility, and a toilet, chemical waste and recycling facility for campsite residents and in conjunction with and ancillary to the use of Salcombe Regis Camping and Caravan Park. The buildings shall not be operated independently of the camping and caravan site and shall not be made available or advertised for non patrons of those facilities.

(Reason - The buildings are only justified by the need on site for facilities in conjunction with its use as a camping and caravan site and protect the amenity of adjoining occupiers in accordance with Strategy 7 - Development in the Countryside and Policies D1 - Design and Local Distinctiveness and EN14 - Control of Pollution of the Adopted East Devon Local Plan 2013-2031.)"

The stated current use of the building appears to be in breach of this condition and shall need to be addressed by an application for planning permission.

Nevertheless, the primary issues for consideration regarding the current application is; a) what does condition 3 control? and; b) what are the material impacts in approving the application and thereby varying the condition? With regards to point

a), it is the position of officers that the building could be used as a shop, dwelling or office without any restriction on the extent of that use nor does the condition protect any one of those uses. With regards to residential use of the building the wording of condition 3, regardless of intentions of the LPA at the time, provides flexibility as to the type of occupation and length of tenure.

Varying the condition in line with what the applicant has requested would enable residential use of the building separate from the operation of the caravan park. Notwithstanding this, having reviewed what condition 3 can and cannot control and weighing this against the impact of severing the residential use of the building from the park, the LPA is only able to attribute some very minor environmental impact through possible increased traffic movements. However, when engaging the tilted balance as per the requirements of paragraph 11d), in order for the LPA to justify refusal of the application it shall need to be confident that use of the building as an open market dwelling would result in 'significant or demonstrable harm'.

Having balanced what the building could currently be used for against the uses and level of those uses that varying condition 3 would allow, and the lack of harm identified, the LPA cannot reasonably resist the application. The application is therefore recommended for approval.

Comments made from a number of third parties and statutory consultees have called for the building to be demolished if it is no longer needed. However, such a requirement was not a condition on the original consent and in any case would be deemed an unreasonable requirement which would fail the tests of the Planning Practice Guidance for planning conditions. The original plans condition has also been varied to include updated drawings to accurately reflect the current appearance of the building. The demolition of a structurally sound dwelling house that causes no material harm would also be unsustainable.

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 building hereby permitted shall only be used as a shop and office ancillary to the operation Salcombe Regis Camping and Caravan Park or as a residential dwelling.
(Reason: To protect the viability of town centres and to ensure that the Local Planning Authority retains control over the use of the building as an unrestricted retail use may give rise to additional planning issues and to comply with Strategy 7 - Development in the Countryside, Policy E5 - Small Scale Economic Development and E15 - Retail Development in Rural Areas outside Built-up Area Boundaries of the East Devon Local Plan 2013-2031.)'

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

Plans relating to this application:

12712-0001-01	Location Plan	22.03.23
12712-0005-02	Elevations	04.08.23
12712-0004-02	Floor Plans	04.08.23
12712-0006-01	Site Plan	18.08.23

List of Background Papers

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