

Ward Budleigh And Raleigh

Reference 23/1120/FUL

Applicant Mr William Pratt

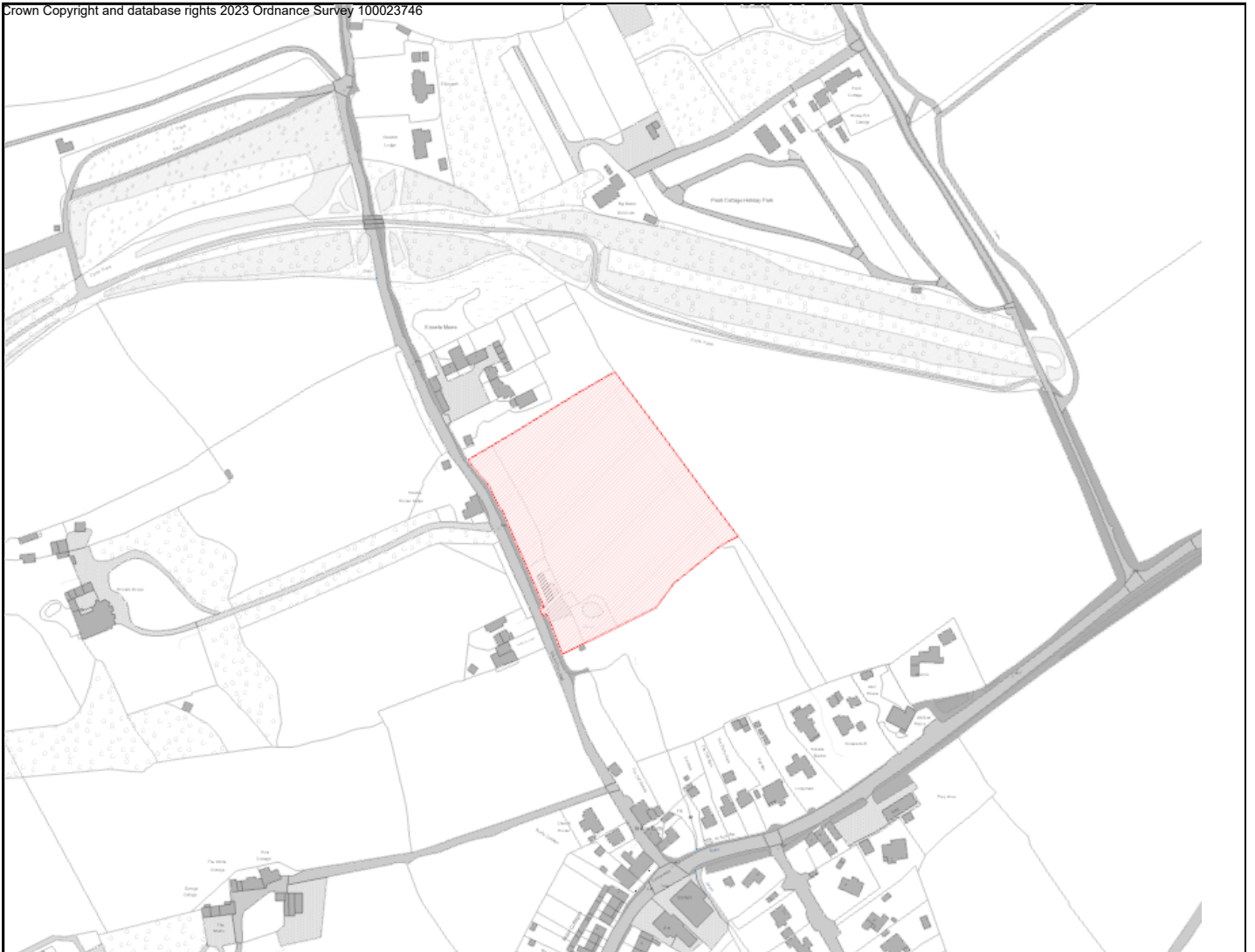
Location Lily Farm Vineyard Dalditch Lane Budleigh
Salterton EX9 7AH

Proposal Erection of a single storey managers
accommodation and single storey side
extension to Vineyard premises.



RECOMMENDATION: Refusal

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		Committee Date: 21.11.2023
Budleigh And Raleigh (Budleigh Salterton)	23/1120/FUL	Target Date: 09.08.2023
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Location:	Lily Farm Vineyard Dalditch Lane	
Proposal:	Erection of a single storey manager's accommodation and single storey side extension to Vineyard premises.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is before the Committee as the officer recommendation differs to that of the commenting ward member.

The site comprises a family-run vineyard, approximately 1.5 hectares (3.7 acres) in area, located approximately 100 metres to the north west of the Built-up Area Boundary of Budleigh Salterton at Knowle village. The site partially occupies steeply sloping land that falls from east to west, the lower portion of which is located within flood zones 2 and 3 where there is a medium and high risk of flooding, respectively. The site is also located within the designated East Devon Area of Outstanding Natural Beauty (AONB).

The application seeks planning permission for the construction of a single storey four-bedroom manager/rural worker's dwelling on the site. The details show horizontal timber clad walls and a double monopitch roof with a Sedum finish.

It follows the refusal of a previous application in 2016, and subsequent dismissal at appeal the following year, of a larger two storey dwelling on the site that was submitted by the applicant's parents. Whilst they presently continue to operate the business, with increasing assistance from the applicant, the proposal essentially forms part of a succession plan for the 'next generation' management of the vineyard. To this end, the dwelling would be intended to accommodate the applicant and his young family, who are currently resident in Exeter.

The previous application was refused on grounds relating to the failure of the proposal to satisfy the functional and financial tests for rural workers' dwellings set out in adopted Local Plan Policy H4 in addition to the detrimental impact of the development upon the rural landscape character and landscape and scenic

beauty of the AONB. These grounds were supported by the appeal Inspector.

The current submission seeks to demonstrate changes in circumstances since 2016/17 that are now thought to demonstrate both the essential functional requirement for a permanent dwelling on the site and that the vineyard viably generates a level of profit that is sufficient to provide an acceptable return for an agricultural worker.

Whilst it is accepted that the proposal would now largely satisfy the financial test of Policy H4, there remain concerns as to the extent to which it would meet the functional test and, more particularly, some of the previous appeal Inspector's findings.

A key element of the applicant's case is focused upon the intended development of a winery (for which planning permission has been granted) that would enable wine production on site as opposed to the current situation where the grapes are transported elsewhere and processed before the final product is brought back to the site. However, without the security of a permanent on-site presence that a dwelling would provide, this is unlikely to be realised.

Indeed, these are argued as representing two of a number of special circumstances justifying the requirement for the development; the others being the running of the vineyard itself and the expansion of both home delivery and cafe opening hours that a dwelling would facilitate.

However, security concerns do not, in themselves, justify a new dwelling. Furthermore, there is no evidence that there is, or has been, a specific threat to the security of the vineyard or, in line with the appeal Inspector's findings, that ways in which it may be improved or steps that could be taken to consider the better use of technical solutions have been explored during the ensuing years.

Moreover, it is not accepted that the operation of a home delivery service, or expanded shop and cafe hours or wine tasting tours, would meet any essential need to be resident on site. In addition, a calculation of activities at the vineyard, and the associated 'man days' labour that they generate, provided by the applicant show that more than half of these relate to wine transfer/labelling, business administration and the running of tours and wine tasting events and the running of the shop; none of which involve the type of viticultural activity that justify a permanent presence on site.

As such, the proposal also fails the qualifying test of occupancy of Policy H4 since less than one full-time equivalent worker is shown to be required to be employed in such activity.

On this basis, the proposal would also fail to meet the requirements of the exception test for flood risk owing to absence of any wider sustainability community benefits to outweigh the risk of flooding or any flood risk assessment that demonstrates the safety of the development without increasing flood risk elsewhere or reducing flood risk overall.

In addition, whilst likely to result in a less harmful impact upon the rural landscape character and landscape and scenic beauty of the AONB than the previous scheme, this would not outweigh the above objections when weighed in the overall planning balance.

The proposal also fails to mitigate its impacts on the protected habitats of the Exe Estuary and Pebblebed Heaths arising from recreational impacts on these areas from occupation of the proposed dwelling.

In the absence of sufficient justification for the proposal, and on account of its location, it would also represent an unsustainable form of development that would be mainly reliant upon private car for access to services and facilities.

Refusal is therefore recommended on the basis of these main grounds.

CONSULTATIONS

Local Consultations

Parish/Town Council

This Council supports the single storey extension to the vineyard premises which is in line with Policy EC1 of the Budleigh Salterton Neighbourhood Plan.

However, Members were unable to support the proposal for Manager's accommodation feeling it is over-development of the site.

The proposed residential development is outside the Built-Up Area Boundary (Settlement Boundary) and Members did not feel there was sufficient evidence to making an exception in this particular case.

In summary the proposal is against Policies H2, H4 and NE1 of the Budleigh Salterton Neighbourhood Plan.

Budleigh and Raleigh - Cllr Charlotte Fitzgerald

I am writing in support of the application 23/1120/FUL Lily Farm Vineyard Dalditch Lane.

Lily Valley Vineyard is an important local business with an impressive industry track record in a highly-specialised and fast-evolving industry. Since the application in 2016, great care has been taken to ensure that, with sympathetic planning, the next generation will be able to move onto the site to continue managing the farm whilst minimising harm to the landscape, and indeed potentially contributing positively to it, through considered and sustainable design. For the applicant, moving permanently onsite is a pre-requisite for the success of the next growth stage of the business. I would urge the council to prioritise the sustainability of this farm by enabling the younger generation of family, who have already apparently invested much into supporting the parents get the business to this stage and developed expertise of their own, to take over the business whilst bringing up their own family on the farm.

In particular I would draw attention to the following Strategies in the ELDP supported by this application:

S3: Sustainable Development,

d) Encouraging sustainable economic development, including securing jobs.

The planned business expansion, which is apparently dependent on the success of this proposal, would safeguard existing jobs and lead to new ones as the business expands.

e) Taking a long-term view of our activities: I believe the application meets the requirement of the NPPF definition of sustainability as, 'Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.'

This proposal would enable a young family of five with deep connections to the area to move into the area and continue to raise the next generation on the family farm.

S4: Balanced communities

c) Getting more age-balanced communities 'which includes younger families'. I note that in terms of age groups, Budleigh & Raleigh has one of the more imbalanced (toward the elderly) communities in the district, according to the last census.

S7: Developments in open countryside. Here I firstly refer to the Budleigh Salterton Neighbourhood Plan H4: BAUB which makes provision for developments outside the parish Built-Up Area Boundary if they are 'able to demonstrate that the development conserves and enhances the EDAONB and demonstrate an exceptional need which could not be accommodated outside the EDAONB.' This application demonstrates just such an exceptional need: the business is of a nature that demands the proprietor be on-site or within 'sight and sound' at all times; furthermore there is no suitable alternative, affordable accommodation within that area.

In addition, the EDLP S7 specifies that 'Development in the countryside will only be permitted in accordance with a specific local or Neighbour Plan policy that explicitly permit such development 'and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located'. The view of the vineyard from the surrounding area is distinctive and attractive, so due care and consideration to the design is necessary. Since the 2016 application for manager's accommodation was refused, it is clear that great care has been taken in the amended manager's accommodation plans to ensure that in the new, much more modestly-scaled, proposed building is appropriately situated and designed to have minimal visual impact, being built into the sloping vineyard site. The green sedum roof and larch cladding would help the building to further blend into the landscape. Thanks to these far-reaching design amendments, the proposed plan now meets the brief of avoiding harm to the distinctive landscape.

S28: Sustaining and Diversifying Rural Enterprises

E5 Small Scale Economic Development in Rural Areas.

'Small scale economic development or expansion of existing businesses designed to provide jobs for local people will be permitted where:'

3. If on a Greenfield site, shall be well-related in scale and form and in sustainability terms to the village and surrounding area.'

Criteria are apparently met.

S38 Sustainable Design and Construction

I note the plans include provision for renewable energy sources and use of local, sustainable materials, as well as a green roof.

These are my current views and I reserve the right to alter them based on new evidence.

Technical Consultations

None received.

Other Representations

20 representations of objection, 5 representations of support (including one on behalf of Wines of Great Britain, the industry body of the English and Welsh wine sector) and 1 'neutral' representation have been received.

Summary of Grounds of Objection

- Location of dwelling, within open countryside outside of the BuAB of Budleigh Salterton, has not changed from the previous application and appeal.
- Contrary to the local and neighbourhood plans, which aim to control development in the countryside and protect the character and appearance of the AONB.
- Figures do not add up and future proposals for income are optimistic for what is a small vineyard with no room to expand.
- Application states that the proposal safeguards existing employment; what paid employment has there been?
- Further harm to the character and landscape and scenic beauty of the AONB, which is subject to the highest level of protection and is an essential ecological and recreational resource used by walkers, cyclists and horse riders, contrary to Local Plan Strategy 46.
- There has been no issue with security in the area.
- Flood risk area not a good place to site more toilets as flooding could potentially cause sewer problems.
- There is no valid reason, sufficient justification, functional requirement or special circumstances demonstrated to justify living on site; contrary to Local Plan Policy H4.
- Houses are available for sale or rent within a reasonable commuting and walking distance.
- Dalditch Lane already has traffic volume, access and parking and visibility issues and is unsuitable for additional commercial traffic.
- Unclear as to whether a 3 or 4 bedroom dwelling is proposed.
- Precedent for further house building on the site should the vineyard not be a viable business in the longer term.
- Only difference from 2016 is a slightly greater crop yield and profit; it remains a small family-run vineyard, limited by size, and not considered large enough to be anything more than a hobby.
- Overdevelopment of a small site and no more than a desire to build a family home.

- Economic downturn likely to reduce demand for wine sales, relative to supermarket prices.
- Permission previously granted for the winery; however, owners chose to expand the cafe and wine tasting areas.
- No need to live on site in view of the security technology now available.
- It has been proven over the past 20 years that it is possible to run the vineyard without living on site.
- Dwelling would impact the capacity for growing vines in the future, which would seem counterproductive.
- Development of the vineyard and provision of a dwelling are not interdependent, as previously concluded by the appeal Inspector.
- Proposal depends heavily on the plans for expansion being successful; if not, site would be left with a valuable piece of land with a residential property thereon.
- Vineyard site is within an area at risk of flooding; new development may be both at risk of being flooded itself and/or increase the risk of flooding in that immediate vicinity.

Summary of Grounds of Support

- Enablement of building of a winery, additional security and more time to manage the vineyard and make wine to aid the takeover and growth of the business are all factors that support the functional need for the dwelling.
- Vineyards make a positive contribute to local tourism and the proposed business buildings include improving accessible facilities for visitors; allowing the proposals and therefore supporting the continuance and growth of this family business would in turn contribute to the local economy.
- Would allow the family to better manage on-site wine sales, tours and tastings as well as vineyard management and unlock future wine production, securing the future of the business.
- The British wine sector contributes significantly to the rural economy and is growing with employment forecast to grow by over 50% by 2025.
- Local business that is a valuable asset to the town, also as a tourist destination, with a clear and succinct succession plan in place to ensure that it is not lost and to realise its potential.
- A single storey dwelling built into the slope with a grass covered roof and effective screening that is unlikely to be visible and would therefore result in, at worst, a neutral effect on the AONB.
- Buying local wine enables carbon footprint to be reduced and a local business to be supported.
- Development would be an attractive and well-designed addition that would enhance the environment around the town.
- Creation of local jobs, if the vineyard were to be enabled to maximise its potential, would be of huge benefit to the local community.

Summary of 'Neutral' Comments

- Careful and considered approach to design compared to the previous application; single storey and burying the rear of the dwelling into the hillside.
- However, struggle to understand why a 4 bedroom property, whose rental value would be near the entire revenue of the vineyard, is required.

PLANNING HISTORY

Reference	Description	Decision	Date
18/0205/FUL	Extension to existing vineyard premises and construction of new equipment/storage barn	Approval with conditions	22.05.2018
16/0839/FUL	Construction of manager's accommodation and extension	Refusal	02.11.2016

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 5B (Sustainable Transport)
Strategy 7 (Development in the Countryside)
Strategy 43 (Open Space Standards)
Strategy 38 (Sustainable Design and Construction)
Strategy 46 (Landscape Conservation and Enhancement and AONBs)
Strategy 47 (Nature Conservation and Geology)
Strategy 50 (Infrastructure Delivery)
D1 (Design and Local Distinctiveness)
D2 (Landscape Requirements)
D7 (Agricultural Buildings and Development)
EN9 (Development Affecting a Designated Heritage Asset)
EN13 (Development on High Quality Agricultural Land)
EN14 (Control of Pollution)
EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)
EN21 (River and Coastal Flooding)
EN22 (Surface Run-Off Implications of New Development)
H4 (Dwellings for Persons Employed in Rural Businesses)
E5 (Small Scale Economic Development in Rural Areas)
TC2 (Accessibility of New Development)
TC7 (Adequacy of Road Network and Site Access)
TC9 (Parking Provision in New Development)

Made Budleigh Salterton Neighbourhood Plan 2017-2031 Policies

H4 (Built-up Area Boundary)
NE1 (Conservation of the Natural Environment)

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

ANALYSIS

Site Location and Description

The site comprises a family-run vineyard that occupies approximately 1.5 hectares (3.7 acres) of land within open countryside on the eastern side of Dalditch Lane. Parts of the southern boundary of the site are around 100 metres outside of the nearest part of the built-up area boundary (BuAB) of Budleigh Salterton as defined in both the adopted East Devon Local Plan and made Budleigh Salterton Neighbourhood Plan.

The premises, aside from the rows of vines, comprises an ancillary single storey monopitch-roofed timber building that backs onto, and runs parallel with, the western road frontage boundary with Dalditch Lane. This structure houses a cafe, kitchen, warehouse and toilets.

Permission was granted in May 2018 (application 18/0205/FUL refers) for the construction of an extension to the northern end of this building to accommodate a winery. However, this has yet to be constructed.

A second single storey timber building of gabled form with a fully pitched roof comprising profiled metal sheeting, oriented at right angles to the northern end of this building but detached from it, contains a tool shed and a larger space used for storage and wine tasting. This formed a second element of the approved 2018 scheme.

The site and surrounding area form part of the designated East Devon Area of Outstanding Natural Beauty (AONB).

The vineyard is served by a vehicular access from Dalditch Lane positioned to the south of, and immediately alongside, the southern end of the existing building. To the south of this access is a small vehicle parking area for customers and visitors to the premises.

It occupies land within a localised valley landform with the present building and the lower western portion located in an area that is within flood zones 2 and 3. To the northeast, the land rises steeply. The majority of the vines are grown on this elevated hillside.

The vineyard is largely bordered by established hedges beyond which, to the southeast and northeast, are agricultural fields. A small residential complex (Knowle Mews) closely borders the site to the northwest. Although there exist other residential properties in the vicinity of the site on the opposite side of Dalditch Lane to the west, the character of the area is that of open countryside which, although close to the edge of the built-up area of Budleigh Salterton at Knowle Village, forms the immediate setting of the vineyard.

Background

Full planning permission was sought in 2016 (application 16/0839/FUL refers) for the construction of manager's accommodation, in the form of a two-storey rural worker's dwelling, together with an extension to the ancillary building on the site.

The application was refused, following a referral to the then Development Management Committee in November 2016, on the following grounds:

1. The proposed development would be tantamount to the creation of a new dwelling in an unsustainable location in the open countryside for which there is no demonstrated functional need and where the business does not appear to have been planned on a sound financial basis being unable to demonstrate a profit in the event that staff costs or an owners salary is accounted for. Furthermore, the size of the proposed dwelling is not considered commensurate with the scale of the claimed functional need. The proposal is, therefore, considered unacceptable as it would be contrary to Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the Adopted East Devon Local Plan 2013-2031 and paragraph 55 of the National Planning Policy Framework.

2. The application site is located within open countryside designated as Area of Outstanding Natural Beauty outside of the Built-up Area Boundary for Budleigh Salterton, as defined in the adopted New East Devon Local Plan 2013-2031, in an area that has the highest status of protection in landscape policy terms and where great weight should be given to the control of development in order to protect its rural landscape character and landscape and scenic beauty. The proposed development would be located beyond the existing limits of the built-up area of the town with consequent significant visual harm to its character and appearance arising from the physical presence, built form, size and massing, and the domestic paraphernalia associated with an unjustified dwelling. As a consequence, the proposal would not accord with the development plan or amount to sustainable development and would therefore be contrary to the provisions of Strategies 7 (Development in the Countryside) and 46 (Landscape Conservation and Enhancement and AONBs) and Policy D1 (Design and Local Distinctiveness) of the Adopted East Devon Local Plan 2013-2031 and policy contained within the National Planning Policy Framework.

A subsequent appeal against the decision was dismissed in October 2017 following an informal hearing.

Among the appeal Inspector's key findings were the following:

1. The dwelling would result in a harmful impact that would undermine the landscape quality of the AONB, failing to preserve its character and appearance and natural and scenic beauty. The character of the site and the built form would be very different from the undeveloped attributes of the site. The substantial structure would intrude into the open hillside, creating a pocket of suburban development. It would be the most noticeable element standing out from the hillside and would not be integrated with any existing buildings.

2. The appellant, living within 5 minutes' drive of the vineyard, was close enough to the site so as to be able to manage the crop during difficult weather conditions. In this regard, there was no critical difference to living on the site. It was not clear that weather conditions in the area were so localised or so frequent that living 5 minutes away was inadequate to deal with issues through additional inspections during the night and early in the morning. Efforts made in this regard, since establishing the vineyard, indicated that it was possible to adequately react to most adversities owing to weather conditions.

3. The need for an office from which to undertake administrative duties, whilst a benefit, did not rely upon living on site. The organising of deliveries and pickers at harvest time and dealing with members of the public could be done during the normal working day and does not essentially require on-site accommodation.
4. Although preferable and more convenient to live on site, no clear essential business need to do so for functional reasons had been demonstrated.
5. Whilst successful when based solely upon sales, the net profit of between £6,500 and £7,500 made during 2014-2015 meant, having regard to the relevant test under Local Plan Policy H4, that the business was not commercially viable. Whilst savings would be possible from being able to live on site, these would fail to increase profits to the extent that it would pay the wages of the then two full-time workers (the appellant and his wife).
6. Although it was recognised that the extensions to the vineyard buildings would enable significant savings, since it would facilitate wine-making on site rather than transporting grapes for processing elsewhere, and there were opportunities to enhance the potential for visitor attractions, including wine tastings, refreshments and sales from the public, these did not relate directly to having a dwelling on site. Moreover, such improvements were based upon predictions as opposed to current activity or past performance. They therefore carried limited weight.
7. Overall, it was not considered that a dwelling was essential in order to realise improvements in the profitability of the business or to significantly improve operational matters. Special circumstances to justify the dwelling had not been demonstrated.

Proposed Development

The current proposal principally represents a renewed attempt to secure permission for a manager's dwelling at the vineyard.

It would comprise what is described within the submitted design and access statement as a 'low carbon' four-bedroom dwelling of single storey form, incorporating a split level monopitch roof, that would be set into the hillside with additional planting introduced so as to minimise any visual impact.

The submitted details show the dwelling to be broadly arranged around three sides of an external patio area. On plan, the main core of the building would extend north-south and would measure 20.5 metres in length by 5.5 metres in width. A smaller monopitch-roofed wing, measuring 7.5 metres by 4 metres and accommodating two of the bedrooms, would extend off the western side of this principal element at the southern end whilst a flat-roofed addition would be incorporated off of the northern end of the same elevation; this housing an entrance hallway and a plant room to house a battery to store energy from a 5.6 kW solar p.v. array that would be added to the main monopitch roof. No part of the building is envisaged as being higher than 2.4 metres above existing ground level.

Externally, the building would exhibit horizontal timber cladding to the walls (colour to be confirmed) with green Sedum/wild flower roofs. A roof lantern over the entrance hallway would also be added. In addition, a proposed wood burning stove would be served by a stainless steel flue within the main part of the roof.

The proposals also include a small extension to the western end of the existing tool shed/storage/wine tasting building to provide a further store and a disabled-accessible toilet. This would be designed as a straightforward continuation of the wall and roof of the present building.

Additional screening in the form of hedge planting, to extend west from a point adjacent to the southwestern corner of the dwelling to a point to the rear of the tool shed/storage/wine tasting building, is also proposed.

Further elements of the scheme include the installation of an electric vehicle charging point and the provision of a timber cycle shelter with a storage rack just inside the site entrance.

Considerations/Assessment

The proposal falls to be assessed having regard to the following material considerations that are discussed in turn.

Principle of Development including Functional and Financial Tests

As stated, the site is located outside of the BuAB of Budleigh Salterton, as well as any other site-specific allocation shown on the Proposals Map that forms part of the adopted Local Plan. In policy terms therefore, it forms part of the countryside within which the provisions of Strategy 7 (Development in the Countryside) apply. These only permit development where it would be in accordance with a specific local or neighbourhood plan policy and where it would not harm the area's distinctive landscape, amenity and environmental qualities, including, among other things, local landscape character and public views that form part of the same.

However, Policy H4 (Dwellings for Persons Employed in Rural Business) allows for the development of dwellings in the countryside for agricultural or forestry workers, or people otherwise employed in rural businesses or activities, subject to certain criteria being fully satisfied. These are set out and discussed in full below.

These reflect guidance set out within the National Planning Policy Framework (NPPF) which, at paragraph 80, states that the development of isolated homes in the countryside should be avoided unless, among other exceptions, there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.

The Policy H4 criteria are considered as follows:

1. There is a proven and essential agricultural or forestry or rural business need for the occupier of the proposed dwelling to be housed permanently on the unit or in the specific rural location for functional reasons and the size of the proposed dwelling is commensurate with the scale of the established functional need. Where this need is unproven or a new business is being established a temporary dwelling (such as a mobile home) may be permitted to allow time to establish that there is a genuine functional and financial need for a permanent dwelling. A temporary dwelling will normally be permitted for a period of three years, subject to meeting relevant criteria detailed below

The vineyard has been operated by the applicant's parents for the past 20 years and, with their advancing years, they are unable to continue to do so as they have done during this period. The applicant changed jobs around 20 months ago and reduced working hours so as to be able to dedicate more time to involvement in the family business with a view to making the full transition to taking over its running. In order to make this work financially viable, it is intended to grow and make wine at the vineyard (i.e. instead of the product being made elsewhere and transported back to Lily Farm) with the aim of increasing sales and, in time, offering employment.

To these ends, it is claimed that the need to be able to live at the site is essential. The applicant and his family, including three young children, currently live in Exeter.

Whilst the previous refusal of permission for a manager's dwelling is recognised, it is argued that changes in the business and the wider economic climate since that time would now justify a different stance being taken; not least owing to the development of the tool shed/storage/wine tasting building and the doubling of wine sales since 2016/17.

The claimed functional need to live permanently at the vineyard set out within the applicant's Planning, Design and Access Statement (PDAS) is summarised in point form as follows:

- The growing season through spring/summer and autumn requires a full-time worker for vineyard husbandry to tend, trim and tuck in vines, adjust wires and protect fruit (including hand spraying for disease/pest control and clearing leaves) and pruning, clearing out, bowing over and renewal of vineyard infrastructure ahead of the next season
- Spraying is carried out at short notice and can only be done in the early hours or late evenings to enable pest control from wasps
- During significant changes in temperature it is necessary to regularly check conditions in the warehouse for both temperature and humidity and take action if adjustment is required
- The inability to live on site affects the efficiency of the business and has held it back in being a barrier to longer opening times for the shop/cafe, guided tours and wine tasting
- The aspiration is to make single quality vineyard wines at the vineyard. However, the value of the product is such that there needs to be certainty that there are suitable conditions and facilities to ensure adequate levels of oversight throughout the wine-making process as well as security to safeguard fermenting tanks that further add to on-site stock.
- The present range of security measures, including an alarm system and C.C.T.V., boundary and electric fencing to deter animals and a weather station to monitor temperature, are primarily reactive. There remains a risk that significant damage and theft can occur before anyone gets to the site. This is reflected in far higher business insurance premiums, in the absence of an on-site presence, than those for a dwelling
- The best deterrent would therefore be to live at the vineyard, which would enable timely action to be taken

- Taken in combination therefore, the running of the vineyard, expansion of home delivery and on-site cafe opening hours, the ability to make the wine on site and monitor it and security requirements justify a permanent on-site presence

Fundamentally, the position that is set out by the applicant is that the development of the winery on site is largely dependent upon whether it will be possible to establish a permanent residential presence; i.e. a manager's dwelling.

To this end, it is argued that Policy H4 does not state that the functional need has to exist on the basis of current activity on the holding; moreover, that it is unlikely that any business would invest in new equipment and buildings that it cannot fully utilise.

Although the first of these points is acknowledged, it follows that any claimed functional requirement for a permanent dwelling (i.e. as opposed to a temporary dwelling) must be based upon existing activity of the holding, whether it be agricultural, forestry or, as in this case, viticultural. Without this, any such proposal must be regarded as failing to meet policy requirements from the outset.

The option of a temporary dwelling, in the form of a mobile home, is also discounted for a number of reasons. First, it is claimed that any insistence that a temporary dwelling is necessary to 'unlock' the development of the winery ahead of any acceptance of functional need would significantly stifle development of the business. Secondly, a temporary dwelling, aside from not exhibiting the 'green' credentials offered by the proposed dwelling (i.e. a 'green' roof and sustainable energy generation), would have a greater visual impact upon the AONB. Thirdly, the future removal of any temporary dwelling to enable any permanent dwelling to be constructed would be disruptive to the applicant's children's education. Finally, it would represent an unsustainable use of resources, including cost, to invest in a temporary dwelling for a family of five, only for it to be removed in a few years.

However, these factors are not considered to carry significant weight in the assessment of the proposal against this criterion of Policy H4.

The requirement for rural worker's dwelling proposals to satisfy both the functional and financial tests is long-established. It is not acceptable for one of the tests to be met without the other. Both tests have to be met. Indeed, there are doubtless many examples of rural-based businesses whose financial viability is beyond question but where there would be unlikely to be the demonstrable essential need to be living on site that is required by policy.

Moreover, it is not clear as to why and how a temporary dwelling would have a stifling effect upon the development of the business.

It is also not understood how a temporary dwelling would be likely to result in a more detrimental visual impact upon the rural landscape character or appearance of landscape or scenic beauty of the AONB than the permanent dwelling proposed, as is claimed. Furthermore, although the loss of the 'green' roof and low carbon energy generation measures would represent some loss, there is no explicit policy requirement for single dwelling proposals such as this to incorporate such measures. As such, this weighs as neutral in the overall planning balance.

It is also, again, an established principle of consideration of rural worker's dwelling proposals that it is the requirements of the business/enterprise, as opposed to the personal circumstances of the applicant, that should underpin them. Indeed, Policy H4 expressly states that "the size of the proposed dwelling (should be) commensurate with the scale of the established functional need".

Equally, the scenario where a temporary dwelling is first provided to facilitate the opportunity to seek to demonstrate that a genuine functional need to live on site exists before any permanent dwelling is considered is by no means unusual. Although such proposals are invariably more prevalent in situations where the rural business concerned has yet to be established or fully developed, the policy also applies in regard to cases where the need is unproven.

Fundamentally, this is thought to represent, and remain, the position at Lily Farm Vineyard.

In addition, in regard to the various strands of the applicant's case set out above, there are a number of further points/issues of concern.

First, in terms of site/winery security, which is cited as one of the main drivers for the need for the proposed dwelling, there remains no clear evidence as to any specific security issues that the vineyard has been subject to over the past years. Indeed, as has been referenced previously, the preamble to Policy H4 states that security concerns will not, on their own, be sufficient to justify a new dwelling.

Whilst it is accepted that this is not the sole, or possibly even the main, reason that is being argued as contributing towards the special circumstances needed in order to demonstrate an essential functional requirement to live on site, it is nevertheless thought to be of significance.

In his findings, the appeal Inspector stated that "there may be ways in which security could be improved without needing to live on site and it is not clear what steps have been taken to consider the better use of technical solutions". Reference has been made in the applicant's PDAS to the ongoing use of a range of security measures, including C.C.T.V. and an alarm, together with boundary and electric fencing and a weather station to monitor temperature. However, it would appear that these measures were in place in 2016/17 at the time of the previous application/appeal. There is no evidence as to what, if any, further 'technical solutions' have been employed or even investigated.

The range of activities and tasks involved with the running of the vineyard itself are also referenced in the PDAS as contributing towards a demonstrable essential functional need for the proposed dwelling. These are supplemented by a spreadsheet that sets out a calculation of the man hours involved in these. This is based upon the Wine G.B. Entry Guide Handbook.

This approach produces a calculation of 261 days, equating to 1.1 full time equivalent (FTE) workers. (It is slightly less than that set out on a separate

spreadsheet, based on diarised activities prepared by the applicant's father, the hours within which equate to 292 days or 1.3 FTEs.)

However, a summary table on the first of these shows that 158 of the 261 days are taken up by activities described as 'tours, tasting and shop', 'business admin' and 'wine transfer/labelling' with the remaining 103 hours occupied by the 'vineyard'.

It is not considered that the first three of these groups of activities amounts to a viticultural need that would justify a requirement for a permanent on-site presence. None are directly related to the operation or management of the vineyard itself nor to any other activity that might qualify as contributing toward the establishment of any demonstrable essential need for a dwelling that would meet with this criterion of Policy H4.

Although it is recognised that the levels of income from wine tasting events and vineyard tours, shop sales and other sources comprises a relatively minor proportion of the overall business income, it is apparent that a substantial proportion of the calculated man hours is derived from non-agricultural activity.

In the circumstances therefore, it cannot be considered that an essential functional need for a permanent presence on site to meet the requirements of the operation of the vineyard itself has been adequately demonstrated.

Moreover, the expansion of home delivery and on-site cafe opening hours, cited within the PDAS as the third of the specific circumstances described as justifying the need for a dwelling, would not, again, be sufficient to justify the need to live on site.

The fourth of the circumstances described by the applicant, namely the making of wine on site, would, in itself, represent an activity/operation that might justify a permanent on-site presence. However, owing to the various factors set out above that are thought to weigh in favour of the conclusion that the functional test has not been satisfied, it is not accepted that weight can be given to this in the overall balance of conclusions in relation to this criterion of Policy H4.

2. In the case of a permanent dwelling, the rural business has been operational for a minimum of three years, it is demonstrable that it is commercially viable and has clear prospects for remaining so

The business has clearly been operational for well in excess of three years. Furthermore, an income and expenditure account for the 2022-23 financial year, ending 5th April 2023, that has been provided with the application shows a net profit of almost £24k. for that year.

Set within a broader time context, a graph illustrating annual revenue growth during the past ten years that has also been provided indicates that this has approximately tripled during this period. However, aside from the income and expenditure accounts from 2014 and 2015 to which the appeal Inspector referred in his decision in relation to the 2016 proposal (which have also been supplied with the current application), there is no evidence that the graph reflects audited accounts.

Notwithstanding, it is accepted that the latest year's accounts do provide evidence as to the viability of the business and that the profit return is sufficient to cover a rural worker's salary.

In terms of future operational viability, it is not necessarily the case that all of the planned financial benefits that the applicant has identified rely upon the ability to be able to live on site. Furthermore, some of these are predictions as opposed to relating to current activity or past performance, which dilutes the level of weight that may be given to them; a criticism that the appeal Inspector levelled in his assessment as to the financial viability of the business in 2017.

However, there is no evidence to suggest that the combination of investment in the enterprise and subsequent growth in wine sales over the past few years that has been demonstrated would not be maintained going forward.

As such, and relative to the situation at the time of the previous dwelling application and appeal, it is accepted that the financial viability of the vineyard has been demonstrated for the purposes of Policy H4 and therefore that the financial test that it applies is satisfied. Moreover, it is accepted that a sufficient level of the profit generated is, importantly, is a result of wine production processes and sales, which represents agricultural activity that may be considered in justifying a need for a permanent on-site presence, and not the non-agricultural activity - such as the cafe, vineyard tours and wine tasting events - which does not.

3. In the case of a temporary dwelling, a financial assessment, specifically in the form of a business plan setting out projected future operations, must demonstrate future operational viability

The application relates to the construction of a permanent dwelling. As such, this criterion is not relevant to the assessment of the proposal.

4. The qualifying test of occupancy must involve at least one occupant being employed full time in the relevant rural business. Two occupants in partnership can meet the condition so long as their joint weekly hours equate to a full working week

As explained above in relation to criterion 1, much of the activity referenced in connection with the business is outside of that regarded as justifying a need for a full-time presence on site. The number of FTE workers calculated as being required to fulfil relevant viticultural duties for the purposes of applying the qualifying test of occupancy therefore falls below 1, thereby failing to meet this criterion.

5. There are no buildings on the operational holding suitable for conversion to meet the residential need or existing dwellings available now or likely to be available within a nearby location or settlement. Sale within the last three years of any dwellings or buildings suitable for conversion will be taken into account and will count against 'need' in the assessment carried out

The vineyard is of comparatively modest area as an operational holding and there are no other buildings within it that might be suitable for conversion to meet any

demonstrable essential need for a dwelling were it accepted that such a need existed.

For the same reason, there has been no sale of any dwellings or buildings suitable for conversion.

Furthermore, since the applicant's case centres upon the claimed functional need only being capable of being satisfied through the provision of a dwelling on site (i.e. within 'sight and sound'), as opposed to 'within a nearby location or settlement', this criterion is essentially irrelevant for the purposes of assessment of the proposal.

6. Any permission granted will be subject to an occupancy condition tying it to the relevant business on the proposed dwelling and where appropriate, any existing dwelling on the farm holding

There is no evidence to suggest that the attachment of an agricultural occupancy condition to any permission granted would not be acceptable to the applicant.

As a matter of principle, therefore, the lack of a demonstrable functional requirement for a permanent on-site presence and the failure to meet the qualifying test of occupancy set out within Policy H4 are considered to weigh significantly against the proposed dwelling.

Flood Risk

Based upon information that is available to the Council it would appear that at least part of the proposed dwelling would be constructed within flood zone 2.

Indeed, even if it were established that its intended siting were just outside of flood zone 2, access to it would still be across land that is within both flood zones 2 and 3.

The position of the applicant, however, is that the siting of the dwelling is outside of both of these zones. As such, no flood risk assessment has been provided with the application.

Paragraph 159 of the NPPF requires that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future) and stipulates that, where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraph 161 requires that a sequential, risk-based approach to the location of development should be applied, taking into account all sources of flood risk and the current and future impacts of climate change, so as to avoid, where possible, flood risk to people and property. This should be achieved, and any residual risk managed, by, among other things, application of the sequential test and then, if necessary, the exception test.

Paragraph 162 states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed

development in areas with a lower risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

Paragraph 163 advises that, if it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification. The proposal in this case, involving a residential dwelling, falls within the category of 'more vulnerable' development.

Paragraph 164 states that the application of the exception test should be informed by a site-specific flood risk assessment (FRA). To pass the exception test it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk and that it will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Both elements of the exception test should be satisfied for development to be permitted (para. 165).

Paragraph 167 states that development should only be allowed in areas of flood risk where, among other things: within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons for preference for a different location; the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment; any residual risk can be safely managed, and safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

The provisions of Local Plan Policy EN21 (River and Coastal Flooding) reflect this guidance in as much as they require that a sequential approach is taken in consideration as to the acceptance or otherwise of development in areas subject to river and coastal flooding. Wherever possible, developments should be sited in flood zone 1. Only if there are no reasonably available sites in flood zone 1 will locating it within flood zone 2, and then flood zone 3, be considered. The flood vulnerability of proposed development will be taken into account. If, after following this sequential approach, acceptable sites cannot be found and the development is necessary for wider sustainable development reasons, development may be permitted if the criteria meet those of NPPF paragraph 164 in application of the exception test.

In this case, irrespective of whether the proposed dwelling itself would be located within flood zone 2, it is necessary to apply the sequential test on account of access to it being necessarily through zones of medium and high probability flood risk.

In this regard there is an acceptance, in recognition of the limited area of the holding, that there is no alternative siting for the proposed dwelling that would be capable of being accessed via land that is within the lowest flood risk (i.e. flood zone 1). Indeed, even aside from this, it would be difficult to position the development where it would be outside of flood zones 2 and 3 without it occupying elevated land where its

landscape visual impact upon this part of the AONB would be likely to be more evident.

In such circumstances, it is accepted that there would be no lower risk sites suitable for the development to which it could alternatively be steered. It would therefore be appropriate to consider the need for the exception test.

The national Planning Practice Guidance (PPG) advises that the exception test is required for development within flood zone 3.

However, in the absence of sufficient evidence that the proposed development would meet the requirements of Policy H4 for the reasons set out above, it cannot be concluded that it would provide the wider sustainability benefits to the community to outweigh the flood risk that are required in order to pass the exception test.

Furthermore, in the absence of the submission of a flood risk assessment, it cannot be concluded either that the development would be safe for its lifetime, taking into account the vulnerability of the prospective occupiers, without increasing flood risk elsewhere or reducing flood risk overall.

Impact upon Character and Appearance of AONB

Paragraph 176 of the NPPF confers upon AONBs, and other designated landscapes, the highest status of protection in relation to the conservation and enhancement of their landscape and scenic beauty and states that great weight should be given to these objectives in the control of development.

This is largely reflected in the provisions of Local Plan Strategy 46 (Landscape Conservation and Enhancement and AONBs) which also apply great weight to conserving and enhancing the natural beauty of AONBs and requires that development be carried out in a manner that is consistent with these objectives.

In his assessment of the previous appeal scheme, the Inspector highlighted the raised position of the dwelling in relation to the road (Dalditch Lane) as well as the sensitivity of the site's location beyond the outskirts of the built-up area. In addition, despite recognising the presence of the screening provided by the roadside hedge when travelling along Dalditch Lane, he found that glimpses of the dwelling would still be possible from the road and when passing the entrance. Furthermore, even with supplementary landscaping being introduced, he noted that it would be noticeable from existing dwellings on either side of the site to the east of Dalditch Lane.

There is an acknowledgment that the reduction in the height of the building, coupled with an improved design and appearance (mainly owing to the palette of wall and roof finishes) that would appear more sympathetic with the rural character of the setting of the site and the vineyard, would be likely to result in a markedly reduced impact upon the surrounding landscape in comparison with that scheme. However, it is maintained that very similar glimpsed views of the dwelling would remain available, more especially during the winter months when vegetative cover within the roadside hedge would be absent.

Although it is accepted that the level of harm to the surrounding AONB landscape would, as a result, also be reduced, this needs to be weighed into the overall planning balance alongside the other material considerations, relating to the need for the dwelling and flood risk, which are discussed above.

In this regard, whilst it is possible that, in the event that the scheme were otherwise thought to be acceptable having regard to these issues, this would outweigh the identified level of harm to the AONB, the view that they are not means that the development must once again be regarded as representing an unjustified incursion into the designated landscape that would fail to conserve or enhance its landscape and scenic beauty.

Objection is therefore again raised to the proposal on such grounds.

Habitat Regulations Assessment and Appropriate Assessment

The nature of this application and its location close to the Pebblebed Heaths and Exe Estuary and their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Pebblebed Heaths and Exe Estuary through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy and contributions collected from residential developments within 10km of the designations. However, the financial contribution has not been secured in this case. On this basis, and as the joint authorities are working in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, it cannot be concluded that this proposal will not give rise to likely significant effects.

Conclusion

Whilst there is no objection to the proposed modest extension to the tool shed/storage/wine tasting building, the failure of the proposed dwelling to meet an essential functional need to permanently house a manager/worker at the vineyard is considered to weigh significantly against this element of the scheme. The proposal therefore fails this key test of Local Plan Policy H4.

Furthermore, in the absence of a flood risk assessment, the development is not considered to provide for wider community sustainability benefits, or that it would be safe for its lifetime without increasing flood risk elsewhere and reducing flood risk generally, such that the exception test would be passed. The development would therefore fail to comply with Local Plan Policy EN21.

In these circumstances, it is also not thought that the more limited harm to the AONB landscape that would result, relative to the previous dwelling proposal for the site, can be regarded as weighing sufficiently in favour of the development as to outweigh

this and the above policy and flood risk objections. There would therefore also be conflict with Local Plan Strategy 46 and, more generically, the provisions of Policy D1 (Design and Local Distinctiveness).

The application does not propose to deliver mitigation to address the recreational impacts of occupants of the proposed dwelling on the nearby protected habitats of the Exe Estuary and Pebblebed Heaths and thus it would be likely to have a significant effect on these habitats such that the application should also be refused on these grounds.

RECOMMENDATIONS

1. That the Habitat Regulations Appropriate Assessment be adopted.
2. That the application be REFUSED for the following reasons:
 1. The site occupies a location within the open countryside outside of the Built-up Area Boundary of any established settlement or site-specific allocation set out in the adopted East Devon Local Plan 2013-2031. Within such areas, there is a presumption against new build residential development unless there is a proven and essential functional requirement for a rural worker to live permanently at or near their place of work in the countryside. On the basis of the information submitted, the Local Planning Authority is not satisfied that it has been adequately demonstrated that there exists an essential need for the proposed dwelling to facilitate the functional requirements of the viticultural enterprise that is operated from Lily Farm Vineyard. The proposal would therefore constitute unjustified residential development within the open countryside in an unsustainable location remote from services and facilities. As a consequence, it would be contrary to the provisions of Strategy 7 (Development in the Countryside), Policy H4 (Dwellings for Persons Employed in Rural Businesses), Strategy 5B (Sustainable Transport) and Policy TC2 (Accessibility of New Development) of the adopted Local Plan, Policy H4 (Built-up Area Boundary) of the made Budleigh Salterton Neighbourhood Plan 2017-2031 and the guidance set out in paragraph 80 of the National Planning Policy Framework (2023).
 2. In the absence of a proven essential functional need or other policy justification for the manager's dwelling the development, by reason of its location in the open countryside, distanced from essential services and facilities required for daily living and where options for alternative modes of transport are limited, would constitute an unsustainable form of development with reliance upon the use of the motor vehicle to access such services and facilities to meet the everyday needs of residents. As such, the proposal would be contrary to the provisions of Strategies 5B (Sustainable Transport) and 7 (Development in the Countryside) and Policy TC2 (Accessibility of New Development) of the adopted East Devon Local Plan 2013-2031 as well as guidance set out in the National Planning Policy Framework (2023).
 3. In the absence of any other material considerations weighing in favour of the proposal, the Local Planning Authority is of the opinion that the development would represent an unjustified incursion into open countryside that forms part of

the designated East Devon Area of Outstanding Natural Beauty (AONB) in which the site is located. This area has the highest status of protection in relation to the conservation and enhancement of its landscape and scenic beauty where great weight should be given to the control of development in order to ensure that these objectives are upheld. The proposed dwelling would, by reason of its physical presence and associated domestic paraphernalia, result in visual harm to the character and appearance of this part of the AONB landscape. As such, it would be contrary to the provisions of Strategies 7 (Development in the Countryside) and 46 (Landscape Conservation and Enhancement and AONBs) and Policy D1 (Design and Local Distinctiveness) of the adopted East Devon Local Plan 2013-2031, Policy NE1 (Conservation of the Natural Environment) of the made Budleigh Salterton Neighbourhood Plan 2017-2031 and guidance set out in the National Planning Policy Framework (2023).

4. The application site is located in flood zones 2 and 3 where there is, respectively, a medium and higher probability of flood risk. Whilst it is accepted, following application of the sequential test for flood risk, that suitable alternative sites at lower risk of flooding would not be available or suitable to accommodate the proposed development, in the absence of any proven essential functional need for the proposed dwelling it cannot be concluded that the development would satisfy the exception test insofar as it has not been demonstrated that it would provide wider sustainability benefits to the community that would outweigh flood risk. Furthermore, it has not been demonstrated that the development would be safe for its lifetime, taking account of the vulnerability of its prospective users, without increasing flood risk elsewhere and, where possible, reducing flood risk overall. The proposal therefore fails the exception test and would, as such, be contrary to the provisions of Policy EN21 (River and Coastal Flooding) of the adopted East Devon Local Plan 2013-2031 as well as guidance set out in the National Planning Policy Framework (2023) and national Planning Practice Guidance.
5. No mechanism has been provided to secure a contribution towards measures to mitigate the effects of recreational use of the East Devon Pebblebed Heaths and Exe Estuary Special Areas of Conservation and Special Protection Areas by residents of the proposed development. Without such a mechanism the proposal would be likely to have a significant effect when considered in combination with other developments in the area on the protected habitats and is considered to conflict with the Conservation of Habitats and Species Regulations 2017. In addition the proposal is considered to be contrary to guidance in the National Planning Policy Framework 2021 and to Strategies 47 (Nature Conservation and Geology) and 50 (Infrastructure Delivery) of the East Devon Local Plan 2013-2031.

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

Plans relating to this application:

	Location Plan		14.06.23
LFV.04.23.01	Proposed Plans	Combined	23.05.23
LFV.04.23.03	Proposed Plans	Combined	23.05.23
LFV.04.23.04	Combined Plans		23.05.23

List of Background Papers

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

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