

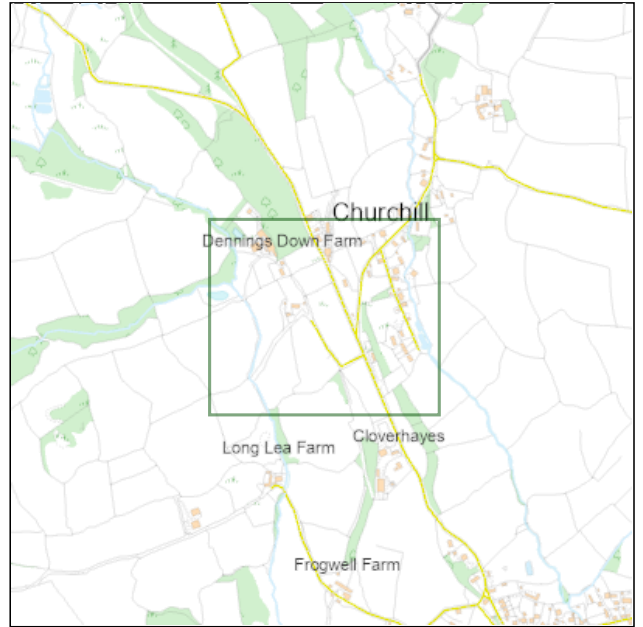
Ward Yarty

Reference 23/1278/FUL

Applicant Mr Hamish Bengough

Location Dennings Down Smallridge Devon EX13 7JN

Proposal Replace garage store with timber frame two-storey educational classroom space and farm office.



RECOMMENDATION: Refusal

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| | | Committee Date: 19.12.2023 |
| Yarty (Membury) | 23/1278/FUL | Target Date: 18.08.2023 |
| Applicant: | Mr Hamish Bengough | |
| Location: | Dennings Down, Smallridge, EX13 7JN | |
| Proposal: | Replace garage store with timber frame two-storey educational classroom space and farm office. | |

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is before Committee as the officer recommendation for refusal is contrary to the view of a ward member. The Parish council also raise no objection to the proposal.

The proposal is to demolish an existing garage/store building and replace it with a two storey building occupying a similar footprint, with a raised external ramp/walkway to access the first floor. The building would be used as a classroom/farm office and is intended to support the expansion of the provision of learning opportunities to schools, community groups and children, which already takes place at the farm.

The site is in the countryside and the Blackdown Hills National Landscape (Formerly known as an AONB). It lies to the south of an existing farm complex and to the east of a farm dwelling and is bounded by Membury Footpath 6. The proposed building would be located to the immediate south of a group of existing mature oak trees, partly beneath their canopy. These trees are protected by a TPO.

The provision of a building for community use and outdoor recreation purposes is supported in principle by Policies RC4 (where no existing buildings are suitable) and Policy RC6 of the East Devon Local Plan, where certain other provisos are met. However the tree officer advises that notwithstanding the fact that the development could be carried out using methods to avoid harm to tree roots, the location of the building in close proximity to the mature oak trees would put those trees at risk of being heavily cut back or felled, due to their being overbearing, causing shading and/or the perception that the trees would potentially cause harm. These potential conflicts between the mature trees and the building are considered particularly likely to arise because the building is taller than the existing building which it would replace and it would be occupied frequently its use as a classroom is of a different nature to the existing

garage/store use. The tree officer considers that these conflicts would be likely to lead to pressure for the trees to be heavily pruned or felled. Such cutting back or felling would harm natural features, the amenity of the area and the character and appearance of the National Landscape in conflict with Local Plan Policies D1 (Design and Local Distinctiveness), D3 (Trees and Development Sites) and Strategy 46 (Landscape Conservation and Enhancement and AONBs) and Membury Neighbourhood Plan Policy Policy NE1 (Conserving and Enhancing the Natural Beauty of our Parish), which sets out a presumption of natural features such as trees being conserved. Additional arguments in support of the application have been considered, including a lack of alternative suitable sites and that the Council could protect the trees with a Tree Preservation Order. It is unclear, however, why an alternative site would not be suitable and notwithstanding the recent protection by TPO this does not guarantee that work to trees or their felling would never take place, as the need for such actions might be successfully argued and permission granted, particularly given the scale of the building and the nature of its proposed use.

No unresolved concerns have arisen in relation to other issues. In the case that permission is granted the external materials of the building could be controlled by condition to ensure its visual impact is acceptable and a condition is recommended to protect nesting birds and to require that the biodiversity enhancement measures recommended in the ecology report be carried out. Notwithstanding this however, it is not considered that the benefits of the proposal outweigh the identified potential loss to the quality of trees and the harm to the National Landscape. As such the application is recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council

no objections

Yarty - Cllr Duncan Mackinder

I am happy to support this application which enhances ability to provide much needed educational opportunities to local groups.

Technical Consultations

EDDC Trees

Objection on the basis of conflict with significant mature oak trees, notwithstanding the construction method proposed. Following re-consultation on additional reasoning supplied by the applicant's arboricultural consultant, the tree officer has confirmed that his objection stands.

Blackdown Hills AONB Project Partnership

Thank you for requesting observations from the Blackdown Hills AONB Partnership on this application.

We note that the building to be replaced is of no architectural merit, the siting is well related to nearby buildings and trees and the proposal relates to existing farm activities. As such we do not wish to submit any detailed comments on this occasion, and would look to the planning authority to apply national planning policy and its own development management policies to the consideration of this proposal.

Other Representations

None have been received.

PLANNING HISTORY

A permission has previously been granted in relation to an agricultural building and to allow the creation of a pond but none are relevant to this application.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies (LP)

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN8 (Significance of Heritage Assets and their setting)

EN9 (Development Affecting a Designated Heritage Asset)

RC4 (Recreation Facilities in the Countryside and on the Coast)

RC6 (Local Community Facilities)

TC2 (Accessibility of New Development)

TC4 (Footpaths, Bridleways and Cycleways)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Neighbourhood Plans

Membury Neighbourhood Plan (Made) (NP)

Policy NE1 - Conserving and Enhancing the Natural Beauty of our Parish

Policy NE2 Preserving Tranquillity & our Dark Skies

Policy BHE2 – Maintaining the Built Character of Our Parish through High Quality Design

Policy TRA1 – Rights of Way (Public Footpaths and Bridleways)

Government Planning Documents
National Planning Practice Guidance

NPPF (National Planning Policy Framework 2023)

Other Documents

Blackdown Hills AONB Management Plan 2019 – 2024 (NB The Blackdown Hills AONB is now referred to as The Blackdown Hills National Landscape).

Site Location and Description

The site is in the countryside near to the small settlement of Churchill. It is a short distance away from other small settlements including Smallridge and Allsaints and it lies approximately 3.2 km to the north of the larger settlement of Axminster. It lies within the Blackdown Hills National Landscape (formally known as the Blackdown Hills AONB) and is located within the catchment of the River Axe SAC.

The wider context of the site is a working farm, with the site lying to the south of the main agricultural complex and to the northeast of the farmhouse. The wider context is comprised of agricultural fields and small wooded areas. The site is located on land which slopes down to the west, towards the bottom of a stream valley. The site is currently occupied by a single storey garage/store building, part of which is open-sided. There are a number of mature oak trees to the north of the garage which are part of a wider woodland area to the north and which have recently been protected by a TPO. The tree canopy partly overlaps the site. The site is accessed from the unclassified public highway which lies to the south via a long private drive which passes close to the east of Undercleave Farm, which is Grade II Listed, and lies approximately 91m south of the site. Membury Footpath 6, which has an irregular route but trends approximately east-west, passes close to the west and south and east of the site.

There are no dwellings in close proximity to the site other than the applicant's, the nearest being Undercleave Farm 91 m to the south.

Proposal

Dennings Down Farm has existing links with schools, community groups and home schooled children and provides learning opportunities in relation to farming activities, traditional craft skills, foraging and well-being, however there is no suitable building available to support these activities. It is proposed to demolish the existing garage/store building and replace it with a two-storey timber frame building with a gambrel style roof. To enable the farm to expand these activities the proposed building would provide a classroom/store on the ground floor (together with a covered storage area for coats and boots) and the first floor would provide a classroom and farm office. The building would have a ramp/walkway to access the first floor and it would have a balcony on the opposite site. The building would be heated and would be accessible for wheelchair users. It would provide views across a valley within the Blackdown Hills National Landscape. It would not be used for overnight stays. There is already a composting WC at the site. Parking space for 5 cars is already available at the site for visiting children/adults however walking from the local primary school would also be encouraged. It is stated in the application that

the building may be eligible for grant support from the Blackdown Hills Farming in Protected Landscape programme. An email from an officer in the Blackdowns National Landscape group refers to the learning opportunities currently offered to children visiting the farm.

The building would be constructed using screw piles to try to avoid damage to tree roots. The proposed building would have a slightly larger footprint than that of the existing garage/store, providing an additional 14 m² of floor space.

ANALYSIS

The main issues for consideration include the principle of the proposal, impact on trees, visual impact, impact on wildlife, highway safety and parking, impact on a public right of way and impact on heritage assets.

Principle

Development in the countryside is resisted by LP Strategy 7 except where it is specifically supported by another local plan policy. The proposal relates, in part, to the use of a new building as a classroom by the community (children and schools). It is therefore considered that the requirements of LP Policy RC6 (Local Community Facilities) are relevant to the proposal, notwithstanding that the facility would be privately owned. It is also considered that in some respects the proposal is akin to a recreational facility in the countryside, given that attendees would sometimes be engaged in activities outdoors, and for this reason the proposal is also considered against the requirements of LP Policy RC4 (Recreation Facilities in the Countryside and on the Coast).

Policy RC6 states that in the countryside, proposals will only be permitted if they meet a number of criteria and where the need for the facility has been proven. Whilst no proof of the need for the classroom facility has been provided it is acknowledged that it is intended to support the provision of educational activity for attendees and that existing farm buildings may not be available or suitable (being unlikely to have been designed for a classroom purpose). Policy RC6 also requires that facilities be well related to the built form of the existing settlement. The site is near the settlement of Churchill but it is not immediately alongside the built development of its main settlement area. Therefore the proposal does not meet this locational requirement of Policy RC6. However, where the nature of the activities undertaken at a recreational facility require a countryside location, LP Policy RC4 offers support for it being located in the countryside. Given that the proposed facility is intended to provide activity relating to farming and foraging (amongst other activities) it is considered that it reasonably requires a countryside location. Consequently it is considered that despite the site's remote location, which is not within or near a large settlement or within convenient reach of public transport services, the proposal derives support from Policy RC4. Policy RC4 also requires that where indoor areas are needed use should be made of existing buildings, however as indicated above, it is understood that existing farm buildings may not be suitable for use as a classroom, particularly if they are still required for the purposes of agriculture. Given the support which the proposal draws from LP Policies RC4 and RC6 it is considered that the proposal is acceptable in principle. The further relevant requirements of LP Policies RC4 and RC6 are discussed under the headings below.

In part, the proposal also relates to an agricultural use, as a mixed use as a classroom and farm office is proposed. Agricultural development is supported through LP Policy D7, however where a proposal could give rise to certain adverse impacts there must be a genuine agricultural need for it, in order that it is considered acceptable in principle. The farm is already operating and it is unknown where the farm office work is currently carried out or why a new farm office space is required. It is therefore not known whether there is a genuine need for new farm office space, however given that the provision of a classroom building is acceptable in principle and that the farm office would occupy the same space as one of the proposed classrooms (presumably operating interchangeably with classroom activities) it is not considered that this point weighs significantly against the proposal.

Trees

There are four oak trees covered by a TPO and a holly and an ash tree in the vicinity of the development site. The canopies of a mature oak tree (labelled as T2) overlaps the existing garage. A tree survey, arboricultural appraisal and impact assessment have been provided with the application. These documents indicate that the oaks near the site are classed as category B (moderate quality) whilst the holly and ash are category C (low quality). The survey report indicates that the existing garage is within the root protection areas of several trees and it recommends a specific construction method for the building and raised walkway in order to avoid damage to tree roots. The footprint of the proposed building and the location of the walkway are not shown in relation to the root protection areas or canopies of the trees but it is nevertheless clear from other plans that the proposed building and walkway would have a slightly different footprint to the existing building.

The preamble to LP Policy D3 recognises that trees, both individually and collectively, make an important contribution to the amenity, character and environmental value of the district. It is noted that in this case the trees are in close proximity to Membury Footpath 6 such that they are readily visible from public viewpoints on this footpath. The tree officer has assessed the proposal and whilst he considers that the use of piled foundations may protect the roots of trees during construction, he also considers that the proximity of the proposed building to large mature oak trees would cause issues for the building in relation to overbearing, shading and the perception that the trees would cause harm. He considers that this would be likely in turn to lead to pressure for the trees to be heavily pruned or felled. The officer acknowledges that the existing garage building has not apparently caused a conflict with trees but he points out that the proposed replacement building is larger than the garage (with 2 storeys, whilst the garage is only single storey) and that the nature of its use would be different from that of the existing garage, with the building being likely to be occupied for several hours a day throughout the year. In response to these concerns the agent submitted further information to justify the proposal, including comments from the applicant's appointed arboricultural consultant. The points raised in support are summarised below:

- this is the only suitable location for the new building as it can be accessed without driving through the working farm and is away from working farm buildings, which can be dangerous places;
- the building is close to services and the existing composting WC;

- the building is the only building which can be replaced without affecting the running of the farm;
 - the proposed building would benefit from a good view of the AONB, which supports the purpose of the classrooms;
 - the applicant has an intimate relationship with the surrounding landscape and its natural features;
 - the existing garage has co-existed with the trees for many years and the adjacent trees will be managed so that they can co-exist with the new building;
 - the Local Planning Authority could make a Tree Protection Order (TPO) to regulate pruning works to the trees. (this has now happened)
- The tree officer has been consulted on this additional information however his concerns have not been resolved.

There is no reason other than to agree with the views of the tree officer, particularly given that the nature of the proposed use would be different from the incidental residential use of the existing garage and that the proposed building would accommodate visiting groups of children, which may give rise to a perceived risk of harm from the existing mature trees in close proximity to the building.

The points made by the agent and the applicant's arboricultural consultant are noted and understood. It should be noted however, that if permission is granted the building would be permanent and its permission would be tied to the land rather than to particular owners, such that the future use of the building and the way that trees in close proximity to it are considered and managed is not something that can be assumed.

A Tree Preservation Order has very recently been applied to the mature oak trees adjacent to the site but nevertheless it may be difficult for the Council to resist a future application for work to trees/felling if an argument is made that the trees are causing problems to the users of the building or potential harm.

There appears to be other space available within the holding, e.g. near the main farm complex or in the vicinity of the farm house, which could accommodate a new building whilst avoiding a potential conflict with existing mature trees. Whilst the benefits of the classroom building having an attractive view and being located in proximity to the existing composting WC are understood, outdoor activity at the site appears to be an inherent part of the educational activity offered, such that attendees should be able to appreciate the surrounding National Landscape even if the classroom building were to be located where it may not have a good view. It is also considered that a composting WC would be a relatively simple structure to erect (or relocate) at a new site, if required.

It is therefore not considered, overall, that there are benefits arising from the current proposal which outweigh the identified potential harm to tree quality within site's surroundings, which are part of the highly protected National Landscape. It is therefore considered that the potential risk to the quality of trees in the area which would be caused by the proposal conflicts with the requirements of LP Policies D1 and D3 and also NP Policy NE1, which sets out a presumption that existing natural features, such as trees, shall be conserved.

Visual Impact

The proposed building would be erected near an existing farm complex and dwelling and would therefore meet the one of the locational requirements of LP Policies RC4 and RC6, which requires that development be near existing built development. The proposed building would be erected largely on the site of an existing single storey garage/store building and whilst it would be taller, consisting of 2 storeys instead of 1, the new building would represent a fairly modest increase in scale compared to the existing building, given that the first floor accommodation would use the roofspace within the building. The proposal would not therefore not significantly increase the quantum of development in the countryside. The building would have timber clad external walls and a roof of corrugated metal sheeting, the colour of which could be controlled through the imposition of a condition.

It is therefore considered that the building would be visually recessive and that it would blend acceptably within the context of the farmhouse, mature trees and the adjacent farm complex to the north. LP Policy RC4 requires that parking associated with recreation facilities should be discrete however given that the parking provision at the site is not proposed to increase over that which already exists it is not considered that any new visual impact would arise in relation to parking.

The visual impact of the development is considered to be acceptable.

Wildlife

The proposal involves the demolition of an existing building and the proposal is therefore supported by a wildlife survey, however the surveyor's report is based on the proposal being for the conversion of the garage rather than its demolition. Nevertheless the surveyor concludes that the garage building is unsuitable for roosting bats and no evidence was found of nesting birds in the garage at the time of the survey.

No precautions have been recommended in relation to bats however measures for biodiversity enhancement are recommended, including the provision of new roosting opportunities for bats (through the installation of a bat tube) and nesting opportunities for birds (through the provision of a bird nest box).

In the case that permission is granted conditions are recommended to prevent demolition during the bird nesting season unless a check by a qualified ecologist, carried out immediately prior to demolition, confirms that nesting birds are not present. A condition is also recommended to require that the enhancement measures referred to by the ecologist be carried out within a three month period following the commencement of the use of the development.

With the suggested conditions in place the proposal would accord with the requirements of LP Policy EN5 and NP Policy NE1.

Highway Safety and Parking

The supporting information indicates that the community use, which the proposed building is intended to accommodate, is already operating at the site. This use might occur more often than it does currently, due to the development, but as the building is small scale it would tend limit the number of attendees, such that the provision of

the building is not considered likely to significantly increase traffic to and from the site. No changes are proposed to the existing access arrangements and the Highway Authority have raised no objection or made any request for further information in relation to the proposal. It is therefore considered that the development would be acceptable with regard to impacts on the local highway network and that the highway safety and traffic requirements of LP Policies TC7 and RC6 would be met.

Sufficient space is available within the site for parking 5 cars, as per existing arrangements. Given that the number of attendees would be limited by the scale of the building, as referred to above, this level of parking is considered to be sufficient such that the requirements of LP Policy TC9 would be met.

Public Right of Way

Although the proposed building would be adjacent to Membury Footpath 6, given that there is already a garage, incidental to the dwelling, at the proposed site of the building and that the community use which the proposed building is intended to accommodate (together with associated parking) is already operating there it is not considered that any new impact on this right of way, such as conflict with traffic, would arise, such that the proposal would not conflict with the requirements of LP Policy TC4.

Heritage assets

Special regard is had to the potential impact of the proposal on the setting of the grade II listed Undercleave Farm dwelling, however given that the proposal represents a relatively small scale increase in the built form at the site and it's distance from that building, it is considered that no harmful impact on the setting of the listed building would be likely to arise.

Other issues

Given that the site is not in close proximity to dwellings other than the applicant's it is not considered that it would be likely to have an adverse impact on residential amenity, such that the requirements of LP Policies D1, RC4 and RC6, with regard to residential amenity, are considered to be met.

CONCLUSION

The proposed classroom development would support the provision of an education service to the community which represents a social benefit. Its remote countryside location is considered to be justified, given the nature of some of the particular educational activities to be offered. No concerns arise in relation to the visual impact of the proposal and it is considered to be acceptable in many relevant respects, however the proposed development is considered likely to generate a risk to the quality of existing mature trees protected by a TPO, which are in close proximity to the site, through putting pressure on those trees to be heavily pruned or felled. The reduction in the quality of trees at the site would harm the character and amenity of the area and in turn the Blackdown Hills National Landscape. In the absence of adequate justification for this risk the proposal is considered to represent unsustainable development.

RECOMMENDATION

REFUSE for the following reason:

1. The proposed classroom/farm office building is located in close proximity to four mature oak trees to the north of it covered by a Tree protection Order and the building and associated raised ramp/walkway would be underneath the tree canopy area. The trees are an important natural landscape feature within the Blackdown Hills AONB and are visible from Membury Footpath 6 in both close and more distant views. Due to the building being taller than the existing garage/store which it would replace, its proximity to the trees and the nature of the classroom use, the proposal would put pressure upon those trees to be removed, thinned, lopped or topped, in order to avoid overbearing, shading and the perception that the trees might cause harm, which would cause material harm to the trees and to the Blackdown Hills National Landscape, in conflict with Strategy 46 (Landscape Conservation and Enhancement and AONBs), and Policies D1 (Design and Local Distinctiveness), D3 (Trees and Development Sites) of the East Devon Local Plan and Policy NE1 (Conserving and Enhancing the Natural Beauty of our Parish) of the Melbury Neighbourhood Plan and the provisions of the National Planning Policy Framework, 2023.

NOTE FOR APPLICANT

Informative: Confirmation - No CIL Liability

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

Plans relating to this application:

| | | |
|-------------------------|----------------------|----------|
| DDF/PROP/03 | Proposed Floor Plans | 16.06.23 |
| DDF/PROP/04 | Proposed Floor Plans | 16.06.23 |
| DDF/PROP/05 | Proposed Elevation | 16.06.23 |
| DDF/PROP/06 | Proposed Elevation | 16.06.23 |
| DDF/PROP/07 | Proposed Elevation | 16.06.23 |
| DDF/PROP/08 | Proposed Elevation | 16.06.23 |
| DDF/PROP/01B | Location Plan | 11.09.23 |
| DDF/PROP/09B : combined | Block Plan | 11.09.23 |

List of Background Papers

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

Statement on Human Rights and Equality Issues

Human Rights Act:

The development has been assessed against the provisions of the Human Rights Act 1998, 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.

Equality Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equality 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.

Appendix 1

Tree officer comments

24/8/23

I have some concerns about the application and in particular the proposed siting of a classroom in close proximity to large mature oak trees. While the use of piled foundations may be feasible within the RPAs of the trees to protect the underlying roots during construction the closeness of the new building to the trees would potentially cause significant issues with overbearing, shading and the perception that the trees might cause harm, this would in turn likely lead to pressure for the trees to be heavily pruned or even felled. While I accept there has been a garage building on the site for a number of years that has apparently not caused conflict with the trees, the proposed 2 storey classroom/office, is a more substantial structure that would presumably be occupied for several hours per day throughout the year; this is potentially problematic for the above reasons.

It doesn't seem to have been sufficiently justified or explained why the new building needs to be constructed on the site of the old garage and whether or not other options have been explored.

I would object to this application in its current form due to the potential conflict it would cause with the significant large mature oak trees on the site.

14/11/23 (Following consultation on email from agent including further comment from applicant's appointed arboricultural consultant).

It appears there is no new information in the email, rather a repetition of previous points made in the AIA, therefore my previous comments would still apply

If the application is approved I recommend there is a pre commencement condition requiring a TPP and detailed construction AMS to include the use of piled foundations, access arrangements and services