

Ward Coly Valley

Reference 23/1785/FUL

Applicant Mr Lewis Pring

Location The Old Reservoir Ridgeway Lane Colyton

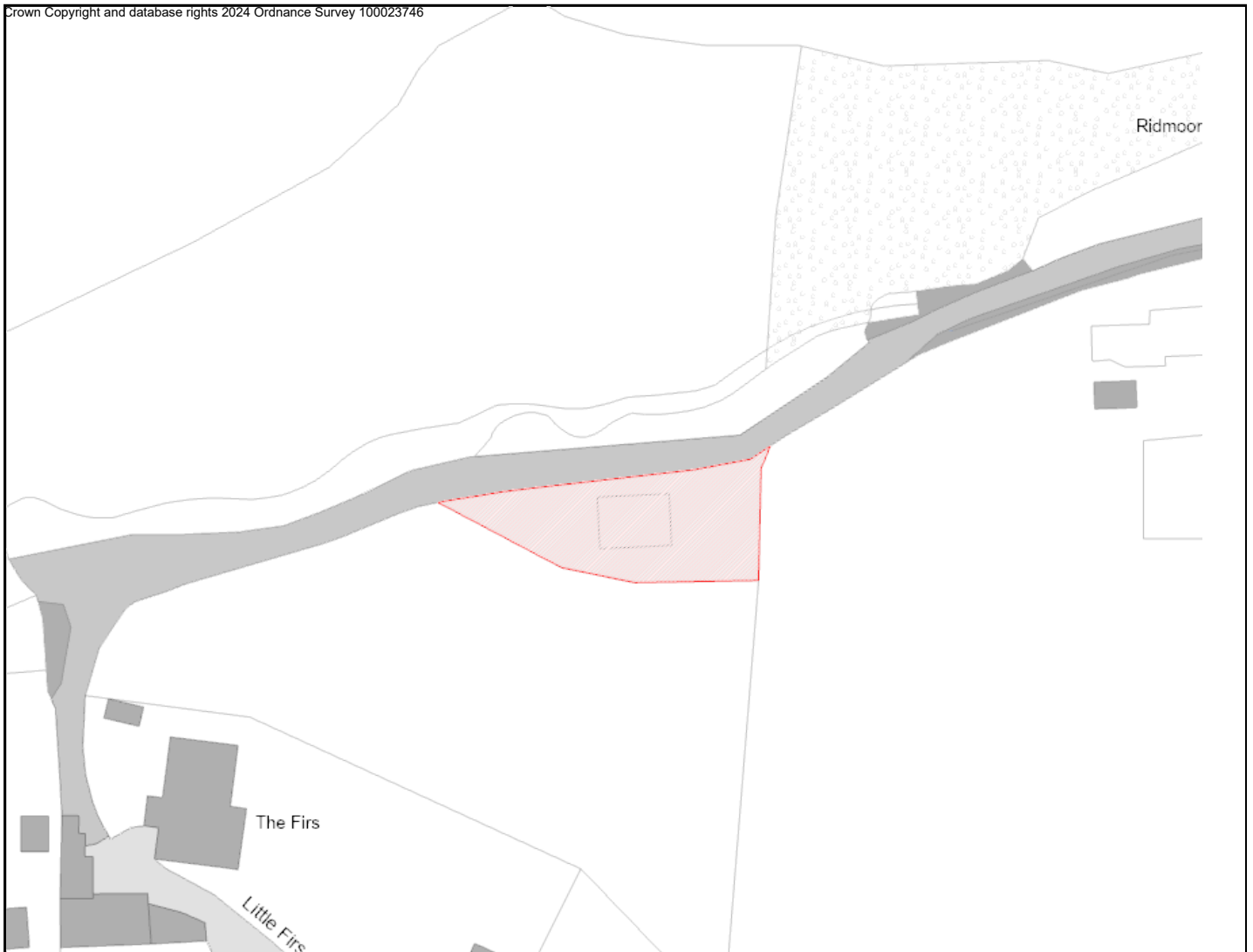
Proposal Demolition of existing reservoir tanks and construction of new dwelling house



RECOMMENDATION:

- 1. Agree Appropriate Assessment (as appended to the report)**
- 2. REFUSE planning permission**

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		Committee Date: 16.07.2024
Coly Valley (Colyton)	23/1785/FUL	Target Date: 12.10.2023
Applicant:	Mr Lewis Pring	
Location:	The Old Reservoir Ridgeway Lane	
Proposal:	Demolition of existing reservoir tanks and construction of new dwelling house	

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EXECUTIVE SUMMARY

The application is before committee as the officer recommendation differs from that of one of the ward members.

Planning permission is sought to demolish the existing reservoir tanks and to construct a new dwelling on the site. The site lies outside the built-up area boundary of Colyton in open countryside and where, in accordance with Stgy 7 of the Local Plan, development proposals require explicit policy support to accord with the development plan. No such policy support exists and as such the proposal represents a departure from the development plan and has been advertised as such.

Permission has previously been granted (13/0505/FUL) to convert the existing reservoir tanks on the site to form a dwelling and there is a file record that a technical start on that permission has been undertaken. This being the case, the applicant could continue to implement that earlier permission. The existence of this 'fallback' position is therefore a material consideration to be taken into account in determining the current application. It is reasonable to assume that were permission to be refused for the current scheme that the applicant would seek to complete the approved conversion scheme. In such circumstances a comparison needs to be made between the fallback position and the current proposal.

The proposed scheme would give rise to similar sustainability impacts with regards to access to services and facilities as the conversion scheme but where national planning policy for conversion of redundant rural buildings does not apply the same sustainability criteria as for new buildings in the countryside.

In other regards, the proposal is considered to be acceptable in terms of highways, amenity, arboricultural and ecology impacts, or could be made so through the imposition of conditions and again where the impacts of development could be considered not dissimilar to the consented conversion scheme. In addition, the proposal may provide some limited benefits in terms of energy costs over the lifetime of the development compared with the conversion scheme.

However, in terms of design and impact on the character and appearance of the area the proposal would have a greater footprint, height and massing than the conversion scheme and where the earlier permission was largely subterranean. In comparison, whilst it is acknowledged that efforts have been made to reduce the visual impact of the proposal and where this would be partially cut into the bank to the south side of the site, it would nevertheless result in a large building of greater footprint, massing and height and where, as a result, the development would be more visible from public view drawing attention to and having an urbanising effect on the character and appearance of the site. This would not be true to the same extent with the conversion scheme. This being the case the proposal does not demonstrate that it would provide a betterment over the fallback position and would result in a new build dwelling in the open countryside contrary to the development plan.

The proposal is therefore in conflict with Strategy 7 and Policies D1 and TC2 of the Local Plan, as well as relevant national planning policies and guidance and as such is recommended for refusal.

CONSULTATIONS

Local Consultations

Ward Member – Cllr Arnott

10.06.24 - Having had a look at this - which has been running for many years even before this proposal - I am happy to agree to the applicants request that it be referred to committee if the officer recommendation is refusal. I do understand this is complex.

Parish/Town Council

The Colyton Parish Council does not support this application for the following reasons:

1. It is deemed too risky to build on Green Sand. There exists the danger of both the banks and the road collapsing, thus marooning the residents who live beyond the site at the top end of Ridgeway Lane..
2. The barrel roof is not in keeping with the other dwellings on the lane and although the old reservoir may have had an arched roof it was made level with soil and grassed over.
3. Although the use of the turning area further up the lane 'is not to be encouraged', we would say it should not be used at all as the road at the top end of Ridgeway Lane is both delicate and muddy.

Technical Consultations

County Highway Authority

No objections subject to inclusion of a condition requiring submission of a Construction Management Plan (CMP).

Environmental Health

No objection subject to control over construction working hours and compliance with the Council's Construction Sites Code of Practice.

Natural England

No objection subject to appropriate mitigation being secured.

EDDC District Ecologist

No objection subject to conditions to secure the nature and type of internal lighting; no external lighting, and; provision of the mitigation, compensation and enhancement measures set out in the submitted Preliminary Ecological Appraisal.

EDDC Trees

The 2 oaks are on the opposite side of the road and therefore I don't have any significant concerns, subject to the implementation of the submitted TPP (Tree Protection Plan) & AMS (Arboricultural Method Statement) being conditioned.

Other Representations

6 no. representations have been received in relation to the original proposal all raising objections to the scheme and summarised as below. No additional comments have been provided in relation to the revised scheme.

- Increased visual impact over previous conversion proposal;
- Works undertaken on site already have destabilised the roadside bank;
- Removal of the existing tanks and importation of new materials would require significant transport movements causing noise and disturbance to local residents;
- The proposed replacement structure would not represent any improvement on the previous approval and would be taller and have more of an impact;
- Exacerbate surface water run-off concerns;
- Exacerbate highway maintenance issues and damage to highway from lorries/HGVs
- Overdevelopment of the site
- Impact on water supply to adjoining land
- Concerns over stability of the site and adjoining land
- Concerns over impact of development on drainage infrastructure on/adjacent to the site
- Potential damage to mature trees growing adjacent to the site
- Lack of details on how foul drainage would be dealt with
- Construction traffic restrictions should be imposed to minimise disruption

- Design out of character with the area
- Lack of parking spaces along Ridgeway Lane
- Impact on wildlife and habitat
- The original permission does not represent a viable or realistic fall-back position
- The retention of part of the concrete structure as a retained wall to the roadside bank is unlikely to prove adequate
- The design does not reflect that of the existing reservoir tanks
- Construction impacts of develop including traffic, turning, construction worker parking and highway damage.

PLANNING HISTORY

Reference	Description	Decision	Date
13/0505/FUL	Conversion of disused reservoir tanks to form residential dwelling	Approval with conditions	02.06.2014

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

D3 (Trees and Development Sites)

EN5 (Wildlife Habitats and Features)

EN19 (Adequacy of Foul Sewers and Adequacy of Sewage Treatment System)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Colyton Neighbourhood Plan (In Preparation)

Strategy 3 (Sustainable Development)

Strategy 7 (Development in the Countryside)

Strategy 5B (Sustainable Transport)

Colyton Parish Neighbourhood Plan 2020 -2031

Coly 2 Trees, Woodlands and Hedgerows

Coly 6 Sustainable Development

Coly 9 Parking Provision for New Housing Development

Government Planning Documents

NPPF (National Planning Policy Framework 2023)

National Planning Practice Guidance

Site Location and Description

The application site relates to a small triangular plot of land extending to approximately 572 sqm (0.057 ha). It is accessed from Ridgeway Lane by a gap in the roadside bank which leads to a gravelled hardstanding area set to the rear of a small entrance splay. The land on site continues to slope up away from the access and reflects the surrounding topography that falls from southwest to northeast.

The existing water tanks are exposed and sit generally below the level of the site to their south side and that of the roadside bank to the north side. The two tanks are arranged parallel to each other and are constructed from concrete, they have domed roofs and are open at their eastern end. The site boundaries are formed by post and wire fencing with the roadside fencing set atop the bank which slopes down to the adjoining lane.

Ridgeway lane is a single track no through road that serves the application site and a number of other residential properties located between the site and the town and a on higher land to the southwest.

The site is located in open countryside to the west of Colyton, approximately 380 metres from the edge of the town (as defined by the Built-up Area Boundary). It is not subject to any specific landscape designation and lies within Flood Zone 1.

Planning history

Planning permission was granted in 2014 for the conversion of the disused reservoir tanks to form a residential dwelling (13/0505/FUL).

The 2014 permission included a number of pre-commencement conditions: 3 (Materials); 4 (Stone Sample Panel); 5 (Landscaping); 7 (Design details); 8 (Surface water attenuation), and; 9 ((Construction Management Plan).

Details on the application file confirm that the pre-commencement requirements of these conditions were met within the time period for commencement.

There is also an email on file, dated 5th May 2017, from a Building Control Officer of the Council to the effect that they had commenced a Building Regulation application at the site the day before *'with the completion of the reduced level dig'*. The email goes on to state, *'A "technical start" was therefore made.'*

It is therefore recognised that there has been previous acceptance that the earlier permission was commenced within the specified time period for commencement and that it therefore remains extant and capable of completion without the requirement for any further planning approval.

Proposed development

The application seeks permission for the demolition of the existing reservoir tanks and construction of a dwelling.

The original plans indicated a two storey building of rectangular plan form on broadly the same part of the site as the existing reservoir tanks but of a reduced footprint area.

Amended plans have subsequently been received where the previously proposed first floor element has been removed and the development now proposed is of single storey form.

The main (barrell-roofed) part of the building would be constructed at broadly the same floor level as the existing tanks and on the same part of the site. It would have a similar overall floor area to the existing tanks but would be repositioned slightly to the southeast further from the lane but closer to the site access. It would also seek to replicate the form of the tanks albeit under a single domed roof, as such there would be an increase in height of approximately 1.5 metres. A section of roof to the south side of the building and the garage to the southeast would be cut into the site and feature green roofs, this would represent an extension in floor area over the approved conversion scheme.

The elevations are proposed to be faced in vertical timber cladding with the roof clad in standing seam metal.

To the southeast of the main building an attached double garage is proposed this would be cut into the slope to the rear and attached to the main building by a utility/plant room link.

To the west end of the building is a small sunken courtyard with stone faced retaining walls to its south and west side. To the north side of the building/courtyard it is proposed to retain part of the existing reservoir structure as a retaining wall feature.

A hardstanding parking/turning area is proposed between the garage and the site access. To the west of the building a small courtyard is proposed with steps leading up to a terraced grass area and bank. The flat roof sections of the building would feature green roofs and sedum planting is also proposed between the south side of the building and the boundary.

Although there is considered to be an extant and implementable permission for the conversion of the existing structure to a dwelling (and where policy D8 of the Local Plan potentially permits such development) as a new build development in the countryside there is no such policy support to be found in the Local or Neighbourhood Plan and as such the proposal has been advertised as a departure from the development plan.

ANALYSIS

The main issues in the determination of the application are as follows:

- Principle and policy compliance
- Impact on the character and appearance of the area and wider landscape impact
- Ground conditions and stability
- Ecological Impact
- Arboricultural Impact
- Highways and Access Issues
- Amenity Impact
- Drainage
- Other Issues

Principle and policy compliance

Strategies 1 and 2 of the Local Plan set out the scale and distribution of residential development in the district for the period 2013-2031. The main focus is on the West End and the seven main towns. Development in the smaller towns, villages and other rural areas is geared to meet local needs and represents a much smaller proportion of the planned housing development.

Strategy 7 of the Local Plan states the following:

The countryside is defined as all those parts of the plan area that are outside the Built-up Area Boundaries and outside of site specific allocations shown on the Proposals Map. Development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located, including:

- 1. Land form and patterns of settlement.*
- 2. Important natural and manmade features which contribute to the local landscape character, including topography, traditional field boundaries, areas of importance for nature conservation and rural buildings.*
- 3. The adverse disruption of a view from a public place which forms part of the distinctive character of the area or otherwise causes significant visual intrusions.*

The proposed development would comprise development in the countryside, outside of the defined settlement boundary of Colyton, thereby conflicting with Strategy 7 of the local plan. Consequently, the site would not offer an appropriate location for the

development proposed having regard to the development plan's overall settlement strategy and expectation for such development to be contained within a designated built up area boundary

Planning law requires that planning applications must be determined in accordance with the development plan, unless other material considerations indicate otherwise. One such consideration is the National Planning Policy Framework (NPPF). The NPPF states that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 11 of the Framework includes the following:

Plans and decision should apply a presumption in favour of sustainable development. For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay: or

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

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

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

The National Planning Policy Framework, Dec 2023, states at paragraph 77 that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply.

Paragraph 226 states: *"From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need."*

The draft local plan consultation undertaken by East Devon District council in November 2022 to January 2023 was carried out under Regulation 18 and so the Local Plan is sufficiently progressed to benefit from this provision. On this basis, as

the Council can demonstrate a 4.5 year housing land supply, policies within the adopted Local Plan most important for determining the application remain up to date and the tilted balance in favour of sustainable development need not be applied.

In assessing this proposal for development in the countryside it is therefore necessary to consider the following:

1. It is in accordance with a specific local or neighbourhood Plan policy that explicitly permits such development in the countryside and where it would not harm the distinctive landscape, amenity and environmental qualities of the area?
2. Are there other material considerations that justify allowing this departure from the development plan?

In this instance there are no specific policies of either the Local Plan or the Colyton Neighbourhood Plan that would support an unrestricted new-build dwellinghouse in this location and as such it has been advertised as and is treated as a departure from the development plan.

It is necessary to consider whether there are any material circumstances that would warrant a decision being taken contrary to the policies of the development plan.

Accessibility of the site

The application site is located approximately 380 metres from the built-up edge of Colyton and 800 metres from its centre where the majority of the services and facilities are to be found and where the nearest bus stops are located. Whilst it would be possible to access these services and facilities by foot or cycle the route is partially unlit and steep and/ or without dedicated footway provision in places as such it is unlikely to provide a viable alternative to the private car for at least some journeys.

Fallback position

The submitted statement makes reference to a 'fallback position' related to the ability to convert the buildings on site under the previously approved permission 13/0505/FUL and which itself would result in the creation of an unrestricted dwellinghouse on the site. Reference is made to case law in R v Secretary of State for the Environment and Havering BC [1998] Env LR 189. This case established 3 elements to the fallback test:

- a) Whether there is a fallback (i.e. a lawful ability to undertake the development);
- b) Whether there is a likelihood or real prospect of it occurring; and if so
- c) A comparison must be made between the proposed development and the fallback.

Taking each of these in turn, it is considered in relation to a) that although there is no lawful development certificate confirming commencement of the previous 'conversion' permission the evidence available is that this permission has been commenced and therefore that a) is met. This being the case, in the event that permission were to be refused for the current proposal it would seem likely that the

applicant would seek to continue to develop the site under that permission so that b) would be met. In terms of c) , there is a need to consider the impacts and benefits of the proposed development in comparison with those of the fallback position, these are considered in the relevant sections below and a conclusion on this matter drawn within the conclusion section of the report.

The Court of Appeal decision in, *Mansell v Tonbridge And Malling Borough Council [2017] EWCA Civ 1314*, is also relevant. This considered when a 'fallback' development may be a material consideration in relation to the determination of alternative proposals for the development of a site. Whilst the case law applied to a Class Q barn conversion development, arguably it is equally applicable in this instance. The relevance in the current case is that permission has been granted for the conversion of the existing building on site to a dwellinghouse (13/0505/FUL), that permission is still extant, could be implemented and would equally result in the creation of a dwellinghouse in the same location, albeit through conversion as opposed to new build.

It is also worth noting that policy H6 of the Local Plan permits the replacement of exiting dwellings in the countryside subject to a number of listed criteria being met. However, this policy would not apply, at present, as there is no existing dwelling on site. Were the conversion scheme to be fully implemented the applicant could then apply to replace the dwelling but that is not the case at present.

This issue has recently been considered by an Inspector in a case elsewhere in the district under appeal reference: APP/U1105/W/23/3326357 - Land South of Rull Barton, Rull Lane, Whimble EX5 2NX. In that case, the development proposed was for a new dwelling which sought to rely on an earlier Class Q prior approval. The Inspector found that the scheme found no support under policy H6 – as there was no existing dwelling to replace. The Inspector went on to consider further the 'fall-back' position but found that, in that instance, the proposal resulted in harm to the character and appearance of the area and as such was unacceptable. It is noteworthy that the Inspector in that case also noted the Council's housing land supply position and that the presumption in favour of sustainable development was not engaged.

Impact on the character and appearance of the area and wider landscape impact

The application site and location of the existing reservoir tanks below ground means that the site has a limited visual impact, largely restricted to views from the lane to the north and from the site access. Whilst the currently exposed nature of the tanks is a detracting feature in any glimpsed views of the site this is localised and results in limited harm. The approved scheme would see the tanks covered over and the roof grassed. In time, the approved scheme, which also included boundary hedge planting, would have further ameliorated the impact of the development.

The proposal differs from that approved fundamentally in proposing a new build rather than a conversion. In addition, whilst the simple form of the existing building is sought to be replicated in the design of the proposed replacement, the new dwelling would be taller and its roof and north (side) elevation would be exposed. The footprint of the proposed building is also moved slightly to the southeast, closer to

the site entrance and extended to include a garage element. As a result, the building on site would no longer retain the largely subterranean appearance of the approved conversion scheme but in a larger building with a taller and exposed roof, set closer to the site entrance and with the addition of a double garage block and high level retaining wall on the eastern boundary of the site.

It is acknowledged that wider landscape impacts resulting from the proposal are likely to be limited and that the proposed building would largely only be viewed from the lane and in the immediate vicinity of the site. It is also recognised that the proposed design has sought to reduce the impact of the development both through a reduction in size (from that originally proposed) and replication of form and materials that take some cues from agricultural buildings. It is also noted that supplemental planting of the roadside hedge bank and works to secure its retention are proposed which would help to reduce and filter views of the site from the lane. However, the building would clearly be residential in appearance and this use would be more apparent in views from the lane where the angular lines and clearly domestic appearance of the garage and building would be visible. Whilst the impact of the previous permission needs to be considered and where that also would have resulted in a change in the character and appearance of the site. The earlier scheme, was for a conversion only and where soil profiling would maintain a more natural appearance with a less 'engineered' change to the site levels resulting in a more discrete form of development.

In this regard the proposed development is considered to have an increased and more harmful impact than the previous conversion scheme resulting in harm to the rural character and appearance of the lane contrary to Stgy.7 and policy D1 of the EDLP and Coly 6 of the CNP..

Ground conditions and stability

Questions have been raised by third parties in relation to the impact of the proposed works on the stability of the roadside bank and road itself. The applicant has been requested to provide additional information on this matter to demonstrate how the retention of part of the existing reservoir tank wall, adjacent to the roadside bank, could be secured and used to help retain the adjoining bank.

A letter has been provided by a Chartered Structural Engineer setting out a methodology to retain the wall and ensure the stability of the bank, this includes the removal of some soil that has backfilled between the hedgebank and the wall, the installation of a suitable land drain and the installation of a concrete plinth at the base of the wall with vertical steel stanchions installed at regular intervals to the inner face of the wall. Illustrative details of how this would work have been provided, it is considered that this indicates that a suitable engineering solution could be found and where further details of this could be secured by condition.

Ecological Impact

A Preliminary Ecological Appraisal has been carried out and the report submitted as part of the application. The report found no evidence of the use of the existing structure by bats and similarly no evidence of nesting birds. The site was found to

have some foraging potential for bats but was noted as being small in area and adjacent to more favourable foraging areas. The report also considered the potential use of the site by other protected species including dormice, otter, amphibians and reptiles and in each case, save for dormice, found no evidence of use and limited potential of the site to provide suitable habitat. With regards to dormice the northern hedgebank, which is to be retained, was considered to provide commuting habitat. The report makes recommendations in relation to the timing of works, lighting of the site and landscaping to provide appropriate mitigation and provision of bird boxes and bat tubes as enhancement. Such measures could be secured by suitably worded conditions.

The Council's ecologist objected to the earlier scheme on the basis of the lack of information, primarily in relation to the lighting of the development and where there was noted potential for use of the site by bats associated with the Beer Quarry and Caves Special Area of Conservation. In light of the amended plans and additional survey information received, the ecologist has confirmed that the previous concerns have been addressed. Therefore subject to conditions to control lighting (both internal and external) in line with the submitted Lighting specification details and to secure the ecological mitigation, compensation and enhancement measures set out in the submitted Preliminary Ecological Appraisal the proposal can be considered to have an acceptable ecological impact.

Biodiversity Net gain requirements, brought forward under the Environment Act 2021 and amendments to the Town and Country Planning Act 1990, mean that, subject to some exemptions, all planning permissions will be subject to a conditional requirement to provide a minimum 10% increase in biodiversity value. The Biodiversity Net Gain (BNG) can be delivered on site or off-site through a registered credit scheme. In this case, the application is exempt as it was made prior to the date when the legislation came into effect. Nevertheless, the Preliminary Ecological Appraisal report includes recommendations to incorporate positive biodiversity benefits including: supplemental planting to the roadside hedgebank; bird box and bat tube provision and creation of habitat piles. These provisions could be secured by condition and would provide some limited benefits.

Beer Quarry and Caves Special Area of Conservation - In relation to this designation the site lies within the landscape connectivity zone for all 3 notifiable species (Greater and Lesser Horseshoe and Bechsteins bats) associated with the site and within the sustenance zone for Lesser Horseshoe Bats.

The applicant's ecologist has undertaken an assessment of the potential impact of the development on the designated site and an Ecological Lighting Consultant has produced a lighting plan for the site and proposed lighting measures to minimise light spill. These documents have informed a Habitats Regulation Assessment which has concluded that likely significant effect cannot be ruled out. An Appropriate Assessment of the scheme has therefore been completed which has concluded that subject to mitigation measures to control lighting and provide appropriate landscaping to the site boundaries that the integrity of the designated site would not be adversely affected. Such measures could be secured by appropriately worded conditions.

Natural England has been consulted on the Appropriate Assessment and have concurred with its findings subject to the above mitigation measures being appropriately controlled by condition.

The Appropriate Assessment of the project under the Habitat Regulations is included as an addendum to this report which also includes a further recommendation that the Appropriate Assessment is adopted. Subject to the identified compensation, mitigation and enhancement measures being secured the proposal is considered to comply with the requirements of Stgy 47 and policy EN6 of the Local Plan.

Arboricultural Impact

Policy D3 of the EDLP seeks to ensure that there is no net loss in the quality of trees or hedgerows resulting from an approved development. There are no trees of amenity value on the site and the hedgerow on the roadside appears to be gappy and of limited value. However, there are 2 no. mature Oak trees growing offsite to the north, on the opposite site of Ridgeway Lane. Given their size and proximity to the site these trees represent a potential constraint.

The application is accompanied by a tree survey that categorises the trees, in accordance with Bs5837:2012 as: T1 - A3 and T2 – B2, as such both are considered a constraint. The report considers the impact of the development on these trees and considers that subject to works being undertaken in accordance with recommendations in the report and arboricultural supervision that harm to the trees could be avoided. Those recommendations include for the retention of the northern wall of the existing reservoir tanks to be retained, this acts as a root protection barrier and also helps to retain the roadside bank. It is noted that works to help stabilise this wall could impact on any existing root structure and that further arboricultural investigation/input may be required. On this point the submitted indicative strengthening works do not indicate that this would be the case.

The Council's arboricultural officers have considered the proposal and advised that subject to compliance with the submitted Tree Protection Plan and Arboricultural Method Statement that there are no arboricultural concerns with the proposal, such compliance could be secured by condition.

It is noted that the submitted Construction Management Plan (CMP) includes a proposal for the 'temporary' removal of the section of hedge bank closest to the site access to improve access for construction with this being reinstated at the end of the construction phase. This proposal would conflict with the proposed tree protection plan. The planning agent has informally advised that the CMP could be amended to remove the requirement for removal of the section of hedgebank and if the application was otherwise acceptable a condition could be passed to require the submission of a revised CMP to secure this.

Highways and Access Issues

The site is accessed via a single track no through road which terminates further to the southwest of the site. The road contains limited passing places and local residents have expressed concerns in relation to the condition of the highway and

the impact of the proposed development on this both in terms of the demolition and construction phases.

In terms of the construction phase of development the proposal would require the breaking up and removal of the existing concrete tanks and the importation of materials involved in the construction of the development both of which could involve at least some larger vehicle movements. The applicant has provided information to confirm that the existing concrete walls of the reservoir will be recycled and reused on site as hardcore and for drainage backfill.

Devon County Council as the highways authority has recommended that a detailed Construction and Environment Management Plan (CEMP) should be required and this could be secured by condition and would look to manage construction impacts to minimise impact on the local highway network.

In terms of impacts through the operational phase of the development these are considered unlikely to result in significant additional journeys. It needs to be borne in mind that there is permission already for a conversion to residential use of the existing structure and where once completed such development would give rise to similar traffic movements.

Although visibility at the site access would be below standard requirements the fact it is existing, the road lightly trafficked and vehicles speeds are likely to be low leads to the view that a refusal on highway safety grounds would not be warranted and that the proposal would comply with the requirements of policy TC7 of the EDLP. In addition, the proposal makes adequate provision for on-site parking in accordance with policy TC9.

Amenity Impact

The proposal has the potential to give rise to impacts primarily during the construction phase of the development, once constructed the location of the site at a distance to the nearest other residential properties is such that no harm is likely to arise.

During the construction phase of development amenity impacts could arise as a result of traffic and construction impacts (noise, dust etc.) The Environmental Health officer has however reviewed the submitted details and has raised no objections to the proposal other than seeking to control construction working hours and preventing fires on site, these measures could be secured by condition to ensure compliance with the requirements of policies D1 and EN14 of the Local Plan.

Drainage

Policy EN19 and EN22 of the EDLP respectively seek to ensure that foul and surface water drainage is appropriately and effectively managed.

In relation to foul drainage, the application is accompanied by a Non-mains drainage form which includes information from South West Water (SWW) to confirm that there is no record of existing drainage infrastructure in the vicinity of the site. The

application proposes to use a private package treatment plant to be installed on the site discharging to an off-site watercourse/leat. The connection route to the offsite water course is not entirely clear but it is noted that on the earlier conversion scheme the proposal included the use of existing drainage infrastructure connecting under the road to the off-site watercourse. At that time it was noted that the separate consent of the Environment Agency would be required for this and this remains the case.

In relation to surface water drainage, it is advised that 'All paving/driveway areas shall be constructed in permeable paving'. However, notwithstanding the current tanks reducing the extent of permeable areas on the site, the proposal would result in a larger building footprint and the main building would be exposed rather than grassed over. Although other roof areas are shown with areas of green roofs. The agent has suggested that additional attenuation measures could be provided below the car parking and turning areas through the provision of storage crates etc. and it is considered likely that a technical solution could be found and that opportunities for above ground attenuation are limited by the constraints of the site.

On the previous conversion scheme the proposal included below ground attenuation tanks designed to slow the run-off rate of surface water and such details were subsequently approved it may be possible to similarly secure attenuation works by condition if the development were otherwise found to be acceptable.

Other Issues

Sustainable construction – As part of the amended plan package the applicant was asked to consider how the redevelopment of the site might represent a more sustainable option than the re-use of the existing structure as permitted under the earlier scheme and where there is explicit policy support at both national and local level for suitable conversion schemes. In response SAP (Standard Assessment Procedure) calculations for both the conversion scheme and proposed new build scheme have been provided. The calculations seek to demonstrate that the energy costs to run the dwelling would be less for the new build as it would be more thermally efficient, and that over the lifetime of the development this would outweigh any loss of embodied carbon in the existing building. It is also advised that the entirety of the existing structure would be re-used in the construction of the new building, with the Construction Management Plan stating, '*...The crushed concrete will be used as clean drainage backfill to the new retaining walls, plus as hardcore under the floor slab of the building.*'

It is recognised that consideration has been given to how the environmental impact of the proposed building can be minimised both through the construction process and recycling of materials on site. This responds positively to Stgy 38 of the EDLP and would provide for a thermally efficient new building utilising renewable energy sources. However these are expectations that should be pursued as standard on new build developments and provides only limited benefits in favour of the proposal.

Housing delivery – As set out above the Council is able to demonstrate a 4.5 year housing land supply but notwithstanding this it is acknowledged that they will need to demonstrate a five year housing land supply in order to successfully bring forward a

new, updated Local Plan. Housing delivery therefore remains an important material consideration. In this instance however the benefits of bringing forward one dwelling are very limited. It is also the case that were the permission to be refused that the fallback permission of the conversion scheme is likely to be pursued and in this scenario the proposed scheme is neutral in terms of housing provision.

CONCLUSION

As set out earlier in this report, this development proposes development in the countryside outside of a built-up area boundary where according to planning law and Strategy 7 of the Local Plan the principle of development must be assessed against the following criteria:

1. It is in accordance with a specific local or neighbourhood plan policy that explicitly permits such development in the countryside and where it would not harm the distinctive landscape, amenity and environmental qualities of the area?
2. Are there other material considerations that justify allowing this departure from the development plan?

The detailed analysis in this report has identified that there are no specific local or neighbourhood plan policies that explicitly permit this type of development in this countryside location.

The Fallback position provided by the earlier scheme to convert the reservoir tanks to a dwellinghouse is acknowledged. However, in line with case law referenced above, where a fallback position exists there will be a need to compare the impacts of this against those of the proposed development. In doing so, it is considered that the conversion scheme, which was for a smaller dwelling incorporated entirely within the envelope of the existing below ground structures on site, would result in a more low-key and organic appearance with a reduced visual impact. Whilst the applicant has amended the current scheme to reduce its scale and has sought to demonstrate the sustainability benefits, in terms of carbon emission reductions that could be achieved over the lifetime of the development, any such benefits are not considered to outweigh the harm that would arise from the increased visual impact of the proposal and its urbanising effect on the character of this rural lane. The proposal would introduce a large building that, unlike the conversion scheme, would be at least partially above ground; include more extensive engineering of levels requiring large sections of retaining wall and more angular building lines. As a result the proposal would be more visible from the adjoining lane and harmful to the largely undeveloped and rural character of its immediate surroundings. It is possible, in time, that the impacts of the development could be reduced, to an extent, through appropriate landscaping but overall the impact of the proposed scheme is considered to be more harmful than that of the fallback position and as such limited weight is attributed to this.

Given the aforementioned and where there are no other material considerations which would justify a departure from the countryside protection policies of the Local Plan. The proposal is recommended for refusal for the following reasons.

RECOMMENDATION

- A) Agree Appropriate Assessment as appended to the report
- B) REFUSE planning permission for the following reasons:

1. The application site lies in open countryside outside of any designated Built up Area Boundary or Strategic allocation within the East Devon Local Plan and where there are no Local or Neighbourhood Plan policies that would explicitly support the development. As such the proposal would represent residential development in a location which is contrary to the spatial strategy for new development set out in the development plan and where the distance and nature of access routes to essential services and facilities and to public transport access to further afield settlements are such that future occupiers are likely to rely on the use of private transport for the majority of journeys. As such, the proposal would be contrary to the provisions of Strategy 7 (Development in the Countryside) and Policy TC2 (Accessibility of New Development) of the East Devon Local Plan 2013-2031 and the guidance within the National Planning Policy Framework.
2. The proposed development would as a result of its increased footprint, height, bulk and massing would have an urbanising and harmful impact on the rural character and appearance of the area beyond that which would occur through the modest conversion of the existing building under the previous planning permission. As such, it has not been demonstrated that any fallback position exists which would result in the same degree of visual impact or that any other benefits of the scheme would outweigh such harm. The proposal is therefore considered to be contrary to the provisions of Strategy 7 (Development in the Countryside) which seeks to ensure that proposals do not harm the distinctive landscape, amenity and environmental qualities within which it is located and policies (D1- Design and Local Distinctiveness) which states that proposals will only be permitted where they respect the key characteristics and special qualities of the area in which the development is proposed and where the scale, massing, density, height, fenestration and materials of buildings relate well to their context.

NOTE FOR APPLICANT

Informative:

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 in determining this application, East Devon District Council has worked proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

Plans relating to this application:

E100

Location Plan

16.08.23

P100A	Proposed Site Plan	08.04.24
P200A	Proposed Floor Plans	08.04.24
P300A	Proposed Elevation	08.04.24
P401	Other Plans	08.04.24

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.