

Ward Newton Poppleford And Harpford

Reference 24/0371/FUL

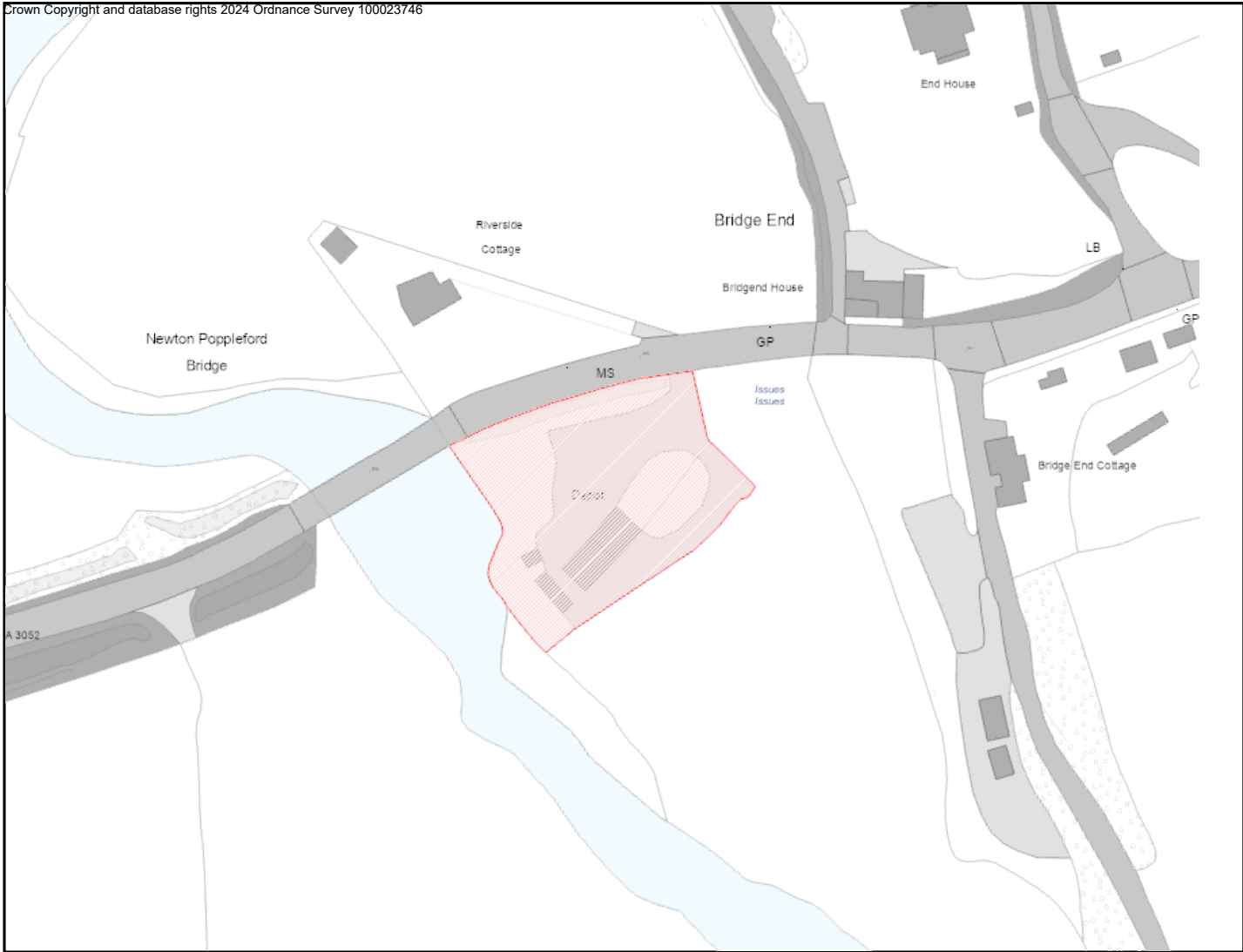
Applicant Mr Kevin Howe

Location Bridgend Harpford Devon EX10 0NG

Proposal Removal of residential caravan and conversion of building to dwelling.



RECOMMENDATION: Refusal



		Committee Date: 17.12.2024
Newton Poppleford And Harpford (Newton Poppleford And Harpford)	24/0371/FUL	Target Date: 06.05.2024
Applicant:	Mr Kevin Howe	
Location:	Bridgend Harpford	
Proposal:	Removal of residential caravan and conversion of building to dwelling.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

The application is before members as the officer recommendation differs from the position of a local Ward Member.

The application site is located to the east of Newton Poppleford and the River Otter. The land is located to the south of the A3052 and consists of a corrugated dutch barn and a mobile caravan. The entire site is located within the East Devon National Landscape and Flood Zones 2 & 3.

The proposals seek to convert the dutch barn into a dwelling. The submitted drawings indicate that the existing form of the curved roof of the building would be retained albeit all the fibre cement sheeting on the external walls would be replaced. All living accommodation would be located at first floor level with the ground floor used as a carport and workshop.

The site is located outside of the defined Built-up Area Boundary (BUAB) of any identified settlement set out in the adopted East Devon Local Plan and therefore the provisions of Strategy 7 (Development in the Countryside) apply. This only permits development where 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. In this case, as the proposals seek to remove an existing mobile home, the most applicable policy is Policy H6 (Replacement of Existing Dwellings in the Countryside) of the East Devon Local Plan.

The existing sheeting and roofing shall be replaced with timber cladding and corrugated steel for the roof. It is considered that the design approach taken and implementation of a satisfactory landscaping scheme would result in some

minor benefits to the setting of the existing building and the wider site.

However, despite extensive discussions between the applicant's agent and the Environment Agency, it is the position of officers that the development is not acceptable on flood risk grounds. The development proposals a 'more vulnerable' use within Flood Zone 3b and fails to provided safe egress arrangement during a flooding event. As such, the development fails to meet the requirements of Policy EN21 (River and Coastal Flooding) of the Local Plan, paragraph 170 of the NPPF and the Planning Practice Guidance. The application is therefore recommended for refusal.

CONSULTATIONS

Local Consultations

Parish/Town Council

Council has several concerns about potential development on this site. The site was considered during the EDDC's HELAA assessment as NEWT_18 and was judged unsuitable for development. The key issues being that it is in Flood Zone 3 and Highways had serious concerns about access to the site and access to village amenities from the site.

There are several Neighbourhood Plan policies that are not met by this application:
Policy EP3 ' the site is in Flood Zone 3.

Policy H3 ' the proposed development is outside the BUAB

Policy TD1 ' although the proposed development is on a brownfield site it is outside the BUAB.

Policy T3 ' there is no footway or safe pedestrian or cycling route from this site to the village amenities including the shop and primary school. Children attending the local school would have to be transported by car.

The following Neighbourhood Plan Policies are delivered:

T1 a) 4 car parking spaces exceed the requirement for a 2 bedroom house. The proposed parking is well-designed.

TD1 ' Policy Overview: the Neighbourhood Plan supports the regeneration of brownfield land. The possible negative impacts of such development are not present here. There is no inappropriate density, overshadowing, loss of trees or loss of space. The policy states that 'all developments must be designed so they sit appropriately within their surroundings' a stipulation that this detailed design appears to fulfil.

TD1 b) materials and design are not ideal but no worse than the existing building.

Policy HQD1 ' Design elements:

f) the new development will improve the site's impact on the surrounding landscape

h) the proposal delivers bee, bat and swift boxes

k) the roof isn't pitched but retains the original building 'outline'.

l) the proposal will enhance the setting of the bridge over the River Otter.

The removal of the caravan and development of the old barn as a residential dwelling and the proposed landscaping will much improve the site.

The Flood Risk Assessment provided by the applicant suggests that, with the appropriate mitigation in place, the development will be safe from flooding throughout its lifetime and that a Flood Warning Evacuation Plan will be prepared for approval by the LPA.

On balance, Councillors decided that the benefits of developing this site outweighed their concerns and voted by majority to support the application.

Newton Poppleford And Harpford - Cllr Chris Burhop
29.03.2024

I note the revised plans and my previous comments continue to apply.

There is existing vehicular access and permission to this yard which, in the past, has had frequent vehicular access. I do not see that an objection on the basis of highways would be sustainable.

Furthermore, I re-emphasise the positive impact that this proposal would have on this corner of Newton Poppleford ward, highly visible from the main road and currently what can only be described as an industrial eyesore.

The property is of course in flood zone 3 which causes great concern, but it is a conversion of an existing property already in the flood zone and being designed to a high standard with flooding in mind.

In my opinion the benefits of this application outweigh the detrimental aspects

Technical Consultations

Environment Agency

Environment Agency position

We object to the proposed development as it falls within a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The application is therefore contrary to the National Planning Policy Framework (NPPF) and planning practice guidance (PPG). We recommend that planning permission is refused on this basis. The reason for this position is provided below.

Reason - Flood Risk

The site is located within flood zone 3 'high' risk area associated with the River Otter. Evidence held by, and available to us, including aerial photographs of flooding in this location, indicate that the site should be considered as being 'Functional' floodplain i.e. Flood Zone 3b as defined in Table 1 of the current PPG.

NPPF Annex 3 classifies development types according to their vulnerability to flood risk. PPG Table 2 provides guidance on which developments are incompatible with certain Flood Zones. The development is classed as 'more vulnerable' in accordance with Annex 3 of the NPPF. Table 2 of PPG makes it clear that this type of development is not compatible with this Flood Zone and therefore should not be permitted. Our in-principle objection is therefore based upon the contents of the Planning Practice Guidance which clearly states that 'More vulnerable' development proposals 'should not be permitted' in such zones.

Advice - Contaminated Land

We have also reviewed the application in light of the previous uses on site posing a risk of contamination. We have reviewed the Tier 1 Preliminary Risk Assessment submitted in support of this application. Document Reference: HCE1140.PRA, dated 12 September 2023. We note that a number of potential contaminant linkages have been identified at the site and concur with the recommendation in section 4.1.3 of the report that "a ground investigation is carried out within the curtilage of the property to confirm the presence/absence of contamination within near-surface soils and further refine the Conceptual Site Model". Where we had no other concerns with the proposal, we would recommend a planning condition relating to the management of contamination. However, in light of our objection in-principle based on flood risks, we have not provided suggested wording for the condition.

Way forward

We wish to make it clear that we have an in-principle objection to the proposal and therefore do not consider that the applicant can overcome the objection with the current proposal. The applicant may need to re-evaluate the proposal in light of the flood risks and try to identify a more suitable location in which 'more vulnerable' development can be acceptable in policy terms, and can be made safe from flooding in line with the aims of the NPPF.

Environment Agency

30.09.2024

We have reviewed the information submitted with recognition of the Local Planning Authority's view that the proposal represents a replacement of the existing residential use onsite. It is still our view that when considering the intentions of the NPPF and PPG, the reuse of the building within a parcel of land which is majority flood zone 3b (functional floodplain) is not a sustainable location for residential development. The entire site is highly functional in terms of flooding as shown on the attached aerial photograph taken after the peak of flooding in Oct 2008. The land around the building will flood frequently and not unlike an existing residential property to the north of the site, the building is at risk of becoming completely surrounded by water during a flood as it has historically, essentially cutting off access/egress routes. On that matter, your authority's emergency planner should be consulted regarding safe access and whether safe refuge is achievable and appropriate. The applicant should ensure they have details around the length of time that occupants could be stranded in the building so that an informed decision can be made. There are also concerns around obtaining insurance for the property given that it would not qualify for the Flood Re scheme.

With the authority's view being that the development constitutes a 'replacement' of a dwelling, a meaningful flood risk sequential test is difficult to undertake and therefore, whilst we note the submitted appeal decision, we feel it is not directly relevant for this case. Indeed, the proposal regarding that appeal decision is materially different to this proposal. For example the replacement building was the same footprint as the original building(s), was on the fringe of flood zone 2/3, there was an absence of flood history on the site, and flood flows for the watercourse in question were predicted to be in the region of 4 cubic metres per second (cumecs).

Conversely, for this current application site the proposed barn is in situ but significantly bigger than the current residential caravan, is within Flood Zone 3b 'Functional floodplain' as defined within the PPG, we do have flood history data including photographs and are able to understand the significant risks, and we have a gauging system near to the site which has recorded much higher flows: 174 cumecs on 25/11/2012, 174 cumecs on 07/07/2012 and 212 cumecs on 30/10/2008.

Given the way in which the building has been designed, with the residential use at first floor, occupants would be above the flood level, but would be trapped on site. Should your authority be minded to approve the application, we strongly advise that further information should be submitted before you do so, regarding the duration of flood events and overall hazard, the onset of the flood event (would occupants have time to evacuate?) so that the emergency planners can provide an informed response. There would have to be heavy restrictions on what could occur within the site post consent, including no changing of ground levels within the site, restrictions of permitted development rights and to ensure that the storage/workshop (on the ground floor of the building) is not used for residential accommodation. Further, should permission be granted, the certificate of lawfulness for use of the site for a caravan dwelling should be revoked/removed to ensure only one residential unit is permitted on site.

A more sustainable option would be to create a raised area of land further away from the river within the application site adjacent to high ground upon which the existing caravan dwelling could be located. The submissions indicate there is scope to do such and provide floodplain compensation.

Given the land is floodplain associated with a 'Main' river, the Environmental Permitting (England and Wales) Regulations 2016 will apply to the land in question which means that various activities on site would be regulated by the Environment Agency.

Please also note that, beyond the flood risk concerns, there would also be a requirement for further investigation and remediation of contaminated land on site (something which we often secure by a condition).

Summary/concluding comments

We would normally object in-principle to a new dwelling in flood zone 3b in line with the National Planning Policy Framework and Planning Practice Guidance. However, as your authority are seeing the proposal as a residential redevelopment, further action should be undertaken to ensure that a fully informed decision can be made. This letter outlines said work, but in short, this includes: consultation with Emergency Planners, ensuring that the building itself is safe and provides suitable safe refuge, reducing flood risk wherever possible (including ensuring no increase to third party land) and revoking the certificate of lawfulness for the caravan.

Conservation

On account of the nature of the proposed amendments, location of the development and verdant character of the site, continue to preserve the setting of Newton Poppleford Bridge (west), Riverside Cottage (northwest) and Leat Bridge (northeast)

as Grade II heritage assets. In this respect conservation do not wish to offer any further comment. Case Officer to assess on planning merit.

Environmental Health

I have considered the application and do not anticipate any environmental health concerns.

EDDC Trees

I have no objection to the proposal but recommend the following condition be put in place to ensure the retained trees are afforded protection during construction.

Contaminated Land Officer

No development approved by this planning permission shall commence until a remediation strategy to deal with any identified risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority.

Other Representations

2 comments of objection raising concerns over the following:

- Highway Safety
- Impact on AONB
- Outside the BUAB for Newton Poppleford.
- The site is within Flood Zone 3

PLANNING HISTORY

21/0264/CPE - Certificate of lawfulness for an existing use of the land for the siting of a residential mobile home for occupation within the Class C3 (dwellinghouse) use. Approved .

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

D1 (Design and Local Distinctiveness)

D8 (Re-use of Rural Buildings Outside of Settlements)

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)

Newton Poppleford Neighbourhood Plan

T1 (Adequate Parking)

EP1 (Conservation and enhancement of the East Devon AONB and Natural Environment)

EP3 (Flood Risk)

EP4 (Surface Water Run-off.

EP5 (SuDS Design and Management)

H3 (Outside the Built-up Area Boundary)

National Planning Policy Framework

Planning Practice Guidance

OFFICER REPORT

Site Location and Description

The application site is located to the east of Newton Poppleford and the River Otter. The land is located to the south of the A3052 and consists of a corrugated dutch barn and a small touring caravan. Records available to the Council indicate that the building and wider site has been used as a scrap yard in the past.

The entire site is located within the East Devon National Landscape and owing to its proximity to the River Otter, Flood Zones 2 & 3. Observations made during an officer site visit noted the presence of several shipping containers located along the northern boundary.

Proposed Development

The proposals seek to convert the dutch barn into a dwelling. The submitted drawings indicate that the existing form of the curved roof of the building would be retained albeit all the fibre cement sheeting on the external walls would be replaced. All living accommodation would be located at first floor level with the ground floor used as a carport and workshop.

Some minor landscaping works include the provision of a driveway, some ornamental planting and the construction of a patio around the building.

The key issues for consideration are the following:

- The principle of development.
- Impact of the proposals on the character and appearance of the area.
- Flood risk to prospective occupants of the building.
- Ecological Impact.

Principle of Development

The site is located outside of the defined Built-up Area Boundary (BUAB) of any identified settlement set out in the adopted East Devon Local Plan and therefore the provisions of Strategy 7 (Development in the Countryside) apply. This only permits development where 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.

The Newton Poppleford Neighbourhood Plan (NP) was made in June 2021 and as such the development management policies within carry weight. Policy H3 (Outside the Built-up Area Boundary) of the NP does support residential schemes outside the BUAB where proposals provide 66% affordable housing where there is a demonstrable need identified within the village. This is in line with the provisions of Strategy 35 (Exception Mixed Market and Affordable Housing At Villages, Small Towns and Outside Built-up Area Boundaries) of the Local Plan.

The proposal to convert an existing structure to a single open market dwelling falls outside the scope of Policy H3 or Strategy 35.

Policy D8 (Re-use of Rural Buildings Outside Settlements) permits the conversion/re-use of rural buildings outside of settlements subject to various criteria, including further criteria expressly relating to residential proposals being satisfied. Additionally, criteria 2. requires the building to be structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction.

Despite the application being supported by a Structural Survey, the report identifies the need for a corrosion survey, remediation works and investigative work into the existing concrete slab and foundations. With regards to the *Hibbit* judgement the LPA cannot conclude that the existing building is capable of conversion without substantial replacement or rebuilding of structural elements. As such, policy D8 is not considered to be applicable to the application.

Policy H6 (Replacement of Existing Dwellings in the Countryside) of the East Devon Local Plan allows the replacement of existing dwellings outside the defined BUAB's provided that there is an existing, permanent, habitable dwelling onsite and that the structure to be replaced is not of architectural importance. Proposals shall need to conserve or enhance landscape character and where replacement structures are not

located on the existing building's footprint, clear planning or environmental benefits demonstrated.

However, whilst the policy doesn't define what constitutes a 'permanent' dwelling, it has been established by caselaw that a static caravan is not a permanent building and that the siting of a touring caravan is for the use of the land rather than operational development based on matters relating to its size, mobility and construction. In this case, the touring caravan is not considered to be a permanent dwelling and therefore policy H6 of the Local Plan is not engaged.

In the absence of any policy support for the principle of a replacement dwelling in this location, the application is considered to be a minor departure from the Local Plan. The National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, despite the lack of policy support for the proposals, the grant of the certificate of lawfulness has established residential use for part of the site is a material consideration.

Location

The site is located approximately 270 metres east of Newton Poppleford which has a wide range of services and facilities, including recreation facilities, a primary school, post office, a village hall, a pub and public transport connections. The village could therefore support day to day living of prospective occupants of the dwelling. However, in order to access these occupants would need to walk along the A3052 and over the Newton Poppleford bridge before there is any dedicated pedestrian footpath that lead into the village.

Some of these facilities listed are located centrally within the village and therefore approximately 750 metres from the application site. Having regard to the distance and lack of safe pedestrian route, it is therefore likely that the proposals would result in some reliance on private car use particularly during poor weather or outside daylight hours. However, it is considered that the additional vehicular trips would be modest with regards to what the site could lawfully generate through residential use of the current caravan, which is proposed for removal.

In summary, it is considered that the proposal would be acceptable with regards to private vehicular use generation taking account of the location and accessibility of the application site. However, as there is no safe pedestrian route into the village the proposals do not accord with policy TC2 (Accessibility of New Development) of the Local Plan. Despite this identified conflict with TC2 it is the position of officers that this would have limited weight in the overall planning balance due to the existing lawful residential use of the site.

Impact on Character and Appearance of the Area

The site is located within the East Devon National Landscape. Local Plan Strategy 46 - Landscape Conservation and Enhancement of AONBs states that development must be undertaken in a manner that is sympathetic to and helps conserve the and

enhance the quality and local distinctiveness of the natural and historic character of East Devon, in particular Areas of Outstanding Natural Beauty. Development will only be permitted where it:

1. Conserves and enhances the natural landscape
2. Does not undermine landscape quality
3. Is appropriate to the economic, social and wellbeing of the area.

Additionally, paragraph 182 of the National Planning Policy Framework (NPPF) states that great weight is given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.

The submitted plans indicate that the existing steel framework of the barn shall be retained and the external sheeting and roofing shall be replaced with timber cladding and corrugated steel for the roof. Whilst it is not shown what the windows shall be constructed of, it is anticipated that aluminium framed openings would be used, the final details of which would be secured via condition if permission is to be granted.

The northern boundary of the site, which lies adjacent to the A3052, is characterised by mature shrubs, hedging and some small trees which screens views from traffic going in an easterly direction. However, for traffic approaching from Sidmouth the application building is visible directly forward from the site's access. Notwithstanding this, the building has a negative, albeit minor, impact on the appearance of the area and the proposals would rejuvenate its appearance. The proposed conversion of the building in addition to the removal of the domestic waste littered around the site would result in some modest enhancement to its setting.

Subject to further details concerning landscaping, the proposals are considered to meet Strategy 46 (Landscape Conservation and Enhancement and AONBs) and paragraph 182 of the NPPF.

Flooding

Due to the proximity of the River Otter, the site is located in Flood Zones 2 & 3. The proposals are supported by a Flood Risk Assessment prepared by AWP. The document lists various standard flood resilience measures and a drainage strategy that is anticipated to reduce the level of surface water run-off generated by the site. Paragraph 4.4 states that the applicant could reprofile adjacent land within the applicant's ownership to provide greater flood volume capacity. However, details of how the works shall be implemented have not been included within the proposals, would likely require planning permission, and therefore are not attributed any weight.

The provisions of Policy EN21 (River and Coastal Flooding), the NPPF and the PPG are clear that for residential proposals at risk of flooding the Sequential Test must be considered. The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding, as required by paragraph 168 of the National Planning Policy Framework (NPPF).

The application building and wider site lies within Flood Zone 3b which is functional floodplain with a high probability of flooding. The aim of the sequential test is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding). Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered.

It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case.

Application of the sequential test has been discussed with the applicant due to the unique circumstances given that there is an existing mobile caravan on site that can be lawfully occupied for residential purposes. An appeal decision has been put forward before the LPA concerning an application for the construction of a replacement dwelling in Tolleshunt Major (Ref: APP/X1545/W/23/3332515). The proposal also included removal of a mobile home. The inspector acknowledges that proposals for replacement dwellings are not exempt from the sequential test and at paragraph 13 highlights that the fact that there is an existing lawful residential use of the site is a material consideration. The inspector goes on to dismiss the need to apply the sequential test.

Whilst the LPA is minded to take a similar approach, paragraph 165 of the NPPF advises 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). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere." Paragraph 167 states that the Exception Test should also be applied where appropriate.

In this case the proposals propose a dwelling in Flood Zone 3b which is functional floodplain. In accordance with the Planning Practise Guidance, as the development proposes a 'more vulnerable use', officers are of the position that the development is unacceptable when applying the exception test in Table 2 paragraph 78 of the PPG.

Furthermore, the Environment Agency have objected to the proposals. Part of their most recent comments have been included below;

It is still our view that when considering the intentions of the NPPF and PPG, the reuse of the building within a parcel of land which is majority flood zone 3b (functional floodplain) is not a sustainable location for residential development. The entire site is highly functional in terms of flooding as shown on the attached aerial photograph taken after the peak of flooding in Oct 2008. The land around the building will flood frequently and not unlike an existing residential property to the north of the site, the building is at risk of becoming completely surrounded by water during a flood as it has historically, essentially cutting off access/egress routes.

With regards to safe egress during a flooding event, the FRA has not produced a Flood Warning and Evacuation Plan (FWEP) and states that this should be conditioned. However, given the extent of Flood Zones 2 and 3, the nearest point of refuge would be on Four Elms Hill and the junction the road to Northmostown Farm, approximately 85 metres east of the proposals building.

In this case, all egress routes are through land at high risk of flooding. Given the likely velocity and depths of flood waters around the building during a design flood, prospective occupants would be dependent on containment. This increase to the burden on emergency services is contrary to the Adept Guidance from the Environment Agency when considering Flood Warning Evacuation Plans.

It is acknowledged that part of the site can lawfully site a caravan for residential purposes and that this is material in considering and comparing flood risk of the proposed development. Upon several site visits the current mobile home does not appear to be currently occupied and, given how overgrown the scrub and hedging around the unit is, hasn't been so for some time. The proposals would increase the scale and intensity of residential use of the site which could be occupied by a family. As such, it is the position of the LPA that the mobile caravan and dwelling are materially different with regards to the nature of accommodation they offer.

Resistance of new residential development within flood zones is not only logical in terms of protecting property, but also in terms of minimising the number of people in flood zones to ensure that emergency services are not put under more pressure during a flood event. Overall, the proposals are considered to fail to meet the Exceptions Test and does not demonstrate that the development would be safe for its lifetime. As such, the development fails to meet the requirements of Policy EN21 (River and Coastal Flooding) of the Local Plan, paragraph 170 of the NPPF and the Planning Practice Guidance.

Ecological Impact

The proposals are supported by an Ecological Appraisal, prepared by GE Consulting. The report identifies that the development would result in the loss of a swallow nesting site and that a European Species License will not be needed. Notwithstanding this the report suggests the following recommendations:

- Bat and bird boxes to be installed on dwelling.
- Bee brick to be installed on dwelling.
- 10 metre riparian zone buffer around the adjacent watercourse.

If permission is to be granted then a Construction and Ecological Management Plan would be required to ensure the control pollution run off into the adjacent watercourse and protection of the riparian zone during the construction phase.

Furthermore, the adjacent hedgerows are likely to be used as commuting and foraging habitat for bats and therefore, if permission is to be granted, no external lighting is to be constructed unless written consent is given by the LPA.

As such, with appropriate conditions to secure compliance with the various mitigation measures detailed within the protected species report, the submission of a COoEMP and any details of external lighting.

The application benefits from the temporary exemption for non-major developments as detailed within The Biodiversity Gain Requirements (Exemptions) Regulations 2024 as the application was submitted before 2nd April 2024. Additionally the development does not need to provide a habitat mitigation payment to offset likely significant effects to the Pebblebed Heaths SSSI as the proposals seek to replace the existing caravan, there would be no net gain in dwellings.

In summary, the proposals are therefore considered to meet the objectives of Policy EN5 (Wildlife and Habitat Features) of the East Devon Local Plan.

Highways and Access

The development would utilise an existing access onto the A3052. Notwithstanding the limited visibility in an easterly direction for traffic existing the site, the access is wide and already utilised by the mobile home. Despite concerns expressed by third parties over the proposed access arrangements, the County Highway Authority have not objected to the proposals.

Furthermore, the site provides sufficient space for two cars to park and for vehicular traffic to access and turn within the site. The proposals are therefore considered to meet Policy TC7 (Adequacy of Road Network and Site Access) and TC9 (Parking Provision in New Development).

Trees

The application is supported by an Arboricultural Report prepared by Advanced Arboriculture. There are two trees of note, a Poplar (T1) located by the site's access and a Willow (T2) located on the western boundary. The Arboricultural Impact Assessment details reduction to T2 crown spread and that all the existing hedgerow is to be retained. The Tree Officer has reviewed the proposals and found these acceptable subject to conditions securing implementation of the Tree Protection Measures. The proposals are therefore considered to meet Policy D3 (Trees and Development Sites) of the Local Plan.

Impact on Designated Heritage Assets

There are three heritage assets within close proximity to the application site. These include Newton Poppleford Bridge (west), Riverside Cottage (northwest) and Leat Bridge (northeast). All are classed as Grade II heritage assets. Owing to the scale of the proposals, the distance between the application site and the heritage assets, the development would not impact their setting.

As the development would preserve the setting and significance of all nearby heritage assets the proposals are considered to meet the requirements of Policy

EN8 (Significance of heritage Assets and their Setting) and EN9 (Development Affecting a Designated Heritage Asset) of the East Devon Local Plan.

Other Matters

- The development would not impact the amenity of any nearby properties.
- The proposals would utilise a Sustainable Drainage System to attenuate surface water run-off.
- The dwelling would utilise a package treatment plant to deal with foul drainage.

Conclusion

The application has drawn support from the Parish Council and a Local Ward Member. Both sets of comments attribute weight to the anticipated enhancements to the site that the development would provide. The proposed replacement dwelling would result in some minor enhancement to the setting of the building and wider site.

However, it is the position of officers that development within the functional floodplain is unacceptable as per the paragraph 79 and Table 2 of the Planning Practice Guidance. Furthermore, as reflected in concerns raised by the Environment Agency, the development would not be safe for its lifetime with regards to providing safe access and egress during a flooding event. It could be argued that the current mobile home is more vulnerable to flooding than the proposed permanent building, but the siting and size of the mobile home is unlikely to be an attractive 'home' for a family and if occupied at all, it is likely to house a small number of occupants. The proposed dwelling would create a family sized home, likely to house more occupants and thus increasing the risk to life posed by development within the functional floodplain.

As such, when the identified benefits to the setting of the building are balanced against the harm arising due to flood risk posed to prospective occupants, the planning balance tips heavily in favour of refusal.

RECOMMENDATION

REFUSE for the following reasons:

1. The proposal is for a 'more vulnerable' use within Flood Zone 3b, an area with a high annual probability of flooding. Policy EN21 (River and Coastal Flooding) of the East Devon Local Plan 2013 - 2031 and paragraph 167 of National Planning Policy Framework (NPPF) require, amongst other matters, for development of this kind within Flood Zone 3b to pass the Exception Test. As per paragraph 79 and Table 2 of the Planning Practice Guidance a 'more vulnerable' use within functional floodplain is unacceptable. Furthermore, in the absence of a satisfactory Flood Warning and Evacuation Plan it has not been demonstrated that the development shall be safe for its lifetime. In the absence of wider

sustainability benefits to the wider community to outweigh the flood risk, the proposals fail the Exception Test and to demonstrate the development would be safe for its lifetime and are therefore contrary to Policy EN21 of the East Devon Local Plan 2013 - 2031 and Guidance in the NPPF and the National Planning Practice Guidance.

Plans relating to this application:

PHR PL-06A: Ground	Proposed Floor Plans	02.08.24
PHR PL-07A: First	Proposed Floor Plans	02.08.24
PHR PL-08A: SE/NW	Proposed Elevation	02.08.24
PHR PL-09A: SW/NE	Proposed Elevation	02.08.24
PHR PL-10B	Proposed Block Plan	02.08.24
PHR PL-12A: landscaping/Ground Floor Plan	Proposed Combined Plans	02.08.24

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.