

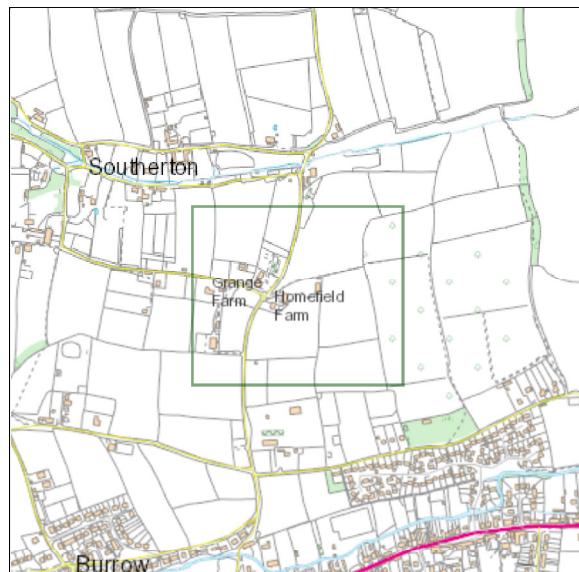
Ward Newton Poppleford And Harpford

Reference 18/2772/FUL

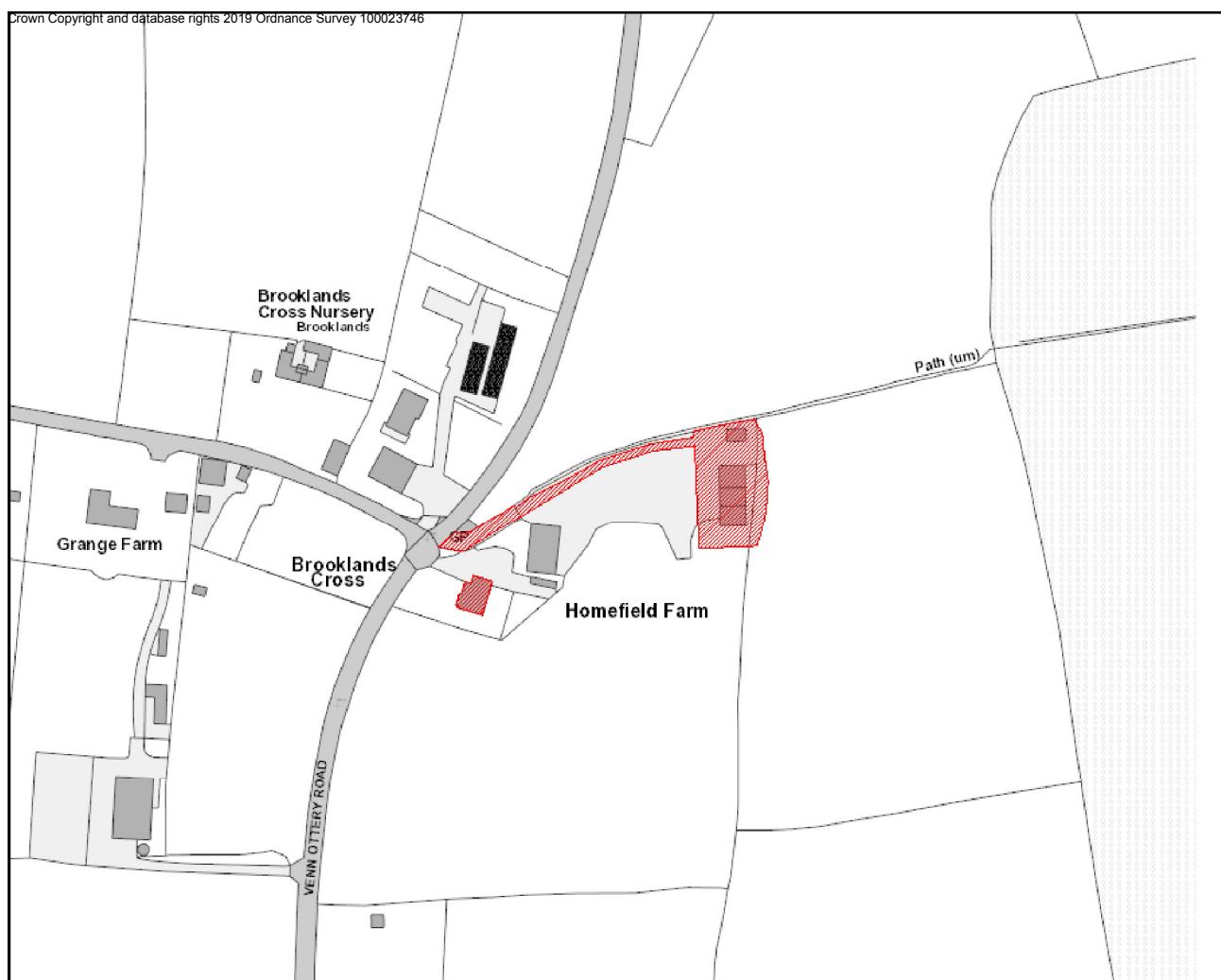
Applicant Mr C Drake

Location Homefield Farm Newton Poppleford Sidmouth EX10 0BY

Proposal Application for a 'live/work' unit in conjunction with the existing business.



RECOMMENDATION: Refusal



		Committee Date: 6th August 2019
Newton Poppleford And Harpford (Newton Poppleford And Harpford)	18/2772/FUL	Target Date: 01.03.2019
Applicant:	Mr C Drake	
Location:	Homefield Farm Newton Poppleford	
Proposal:	Application for a 'live/work' unit in conjunction with the existing business.	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

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

The application proposes for the construction of a Live/work unit at Homefield Farm, Newton Poppleford. The existing business known as 'Garden and Countryside Maintenance Ltd' has been operating from the site since 2002. The business has expanded and diversified since and has established itself as an agricultural, highways support and maintenance, landscape, forestry and general grounds maintenance contractor. The main issues relating to the application concern the visual impact of the building within the East Devon Area of Outstanding Natural Beauty and identifying an essential need for a full time worker to be living onsite.

The development would see the removal of the existing steel framed barn to be replaced by a timber clad and corrugated steel roof building. The new building would be slightly reduced in scale to what exists albeit take the same form. The proposed building is considered to remain agricultural in character and therefore sympathetic to its rural context. As such the development is not considered to be detrimental to the aesthetic qualities of the surrounding landscape and therefore considered to be in compliance with Strategy 46 (Landscape Conservation and Enhancement and AONB's) and Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan.

The outstanding issue with the application relates to identifying an essential need for an additional worker to be living onsite. In summary, the proposed business is considered by the applicant to require an additional full time employee available on site due to the nature of the business and the requirement for staff to be on

call to respond to out of hour call outs and emergency call outs. Additionally the financial value of tangible assets stored onsite, particularly vehicles and machinery, are stated to require additional security.

However the Local Planning Authority is not satisfied that a functional need has been identified, and does not consider that Policy H4 can be applied to the proposal as the business does not need to be located within a rural area. Whilst the nature of the business is subject to emergency call outs at any time of the day, the low frequency and nature of these events coupled with the presence of the existing dwelling occupied by the applicant to provide security, it is not considered to require the presence of a dwelling. There is no functional need for the business or call-outs to be located in the countryside and as such Policy H4 does not support the proposal.

Additionally it has not been adequately explained why staff being on call located at the existing porta-cabin cannot provide the business with sufficient cover during out of hour periods. The anticipated benefits to the business as a result of the second dwelling is not thought to outweigh the harm caused by an additional dwelling in an area considered to be unsustainable.

CONSULTATIONS

Technical Consultation

County Highway Authority

Observations:

The CHA has no objections to the development, nor does it recommend any conditions.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

Local Consultations

Parish/Town Council

Council objects to this application on the following grounds:

- 1) That the rationale of security improvements by way of this additional building is unwarranted as additional security can easily be installed onsite and that no details of losses or thefts from this site have been reported by the Police authorities to the Parish Council,
- 2) That the proposed development as a "live/work" unit is not warranted by the predominately maintenance and highway related business activities undertaken by the applicant,
- 3) That the proposed structure is far too large for the site proposed and would be, by the very nature of its size and construction design, wholly out-of-keeping with the rural nature of the immediate area,

4) That Council can not see any justification for a development of this design and size on the site, especially with the number of bedrooms proposed.

Newton Poppleford And Harpford - Cllr V Ranger

Homefield Farm Newton Poppleford Sidmouth EX10 0BY

Ref. No: 18/2772/FUL

I object to this application. I appreciate that this is a business that has been invested in and has grown over the years and that the work they do is valuable. It does not, however, need to be in the open countryside. Many emergency service workers for example do not live on site but are on call for 24 hours a day, 7 days a week and go to their emergency vehicles prior to action.

The Additional information states the work radius of the business is 80 miles and thus it does not seem necessary that this field in Newton Poppleford is the central hub of the business if the business has outgrown its field in the open countryside. It would be regretful to see this site turned into an Industrial Estate.

EDDC Local Plan 2013 to 2031 P23.6 states: In terms of judging whether or not there is a functional need, if there is a fulltime agricultural worker involved, it is necessary to consider agricultural related activity, most particularly agricultural contracting. The ownership of large and expensive machinery is often beyond the resources of the individual farm and agricultural contracting businesses have grown up to overcome this difficulty... However, such businesses do not necessarily need to be located in the open countryside and as such they may not meet the test required for rural workers dwellings. Although this specifically related to hiring of equipment to farmers, the same principle applies to the EA, Highways, etc. The agricultural machinery does not need to be housed in the open countryside.

EDDC Adopted Local Plan 2013 to 2031 states 'Concerns relating to security will not, on their own, be sufficient to justify a new dwelling'. Security onsite could be increased by use of cameras, alarms etc. There is already one house on site as a deterrent.

In addition, there have been reports of conflict with local drivers on the narrow lanes around the site and the heavy machinery used by the business which indicate that the business may have outgrown this site.

The Additional information document states that there are no existing properties for the applicant to live in nearby. There are a number of new 3 properties for sale in Newton Poppleford within the BUAB including one with employment office space Ref. No: 18/0199/FUL, there are more are under construction at Land South of King Alfred Way and these were built to meet local need in the planning permission given by the Planning Authority, there are four more new houses at Homeleigh, Station Road, Newton Poppleford etc.

EDDC Local Plan 2013 to 2031 23.9 states: Where a dwelling is permitted on a holding it must not exceed the size necessary to meet the reasonable needs of the worker.

A number of trees were felled and much ground levelling was done in site in June 2016 which raised concerns from residents. Residents were concerned that this was in

preparation for a more housing on site. So where the planning application states that no trees need to be removed, this was done historically although EDDC were aware of this and an enforcement officer visited the site.

The planning application has a question on what type of business use would take place on site:

as an office other than a use within class A2 (financial and professional services) - the answer is given as unknown -it is unclear why the planning application states that the use of the office is unknown?

A development of this design, scale and size, with the number of bedrooms proposed, its prominent siting on the field, outside of the BUAB and within the AONB is inappropriate. See

photo attached which was taken from a well used public footpath that directly looks across to the site which is already unsightly in the open countryside

In summary there is no evidence of a Functional Need for an agricultural contractor to have a new house built on this site.

Further comments:

This is an update to my previous comments made after a site visit, discussion with the applicant and employees, visits to neighbouring residents, wider research into the work of the business and the benefits to the wider community. The applicant has addressed a number of the points to address my previous comments. I am declaring a personal interest as a resident in having been a beneficiary of the ditching, flooding and ground clearing activities due to flood water, snow etc. Wider research has also shown the benefits this business offers to the wider farming/agricultural community than previously appreciated and to emergency services who have also been the beneficiary of the services of this business, for example a fire engine had to be towed up Four Elms Hill during the 'beast from the East' snow of 2018.

1) Conflict on the narrow lanes - if there are any issues of concern - if these are mentioned to the applicant he can address them. I have been given examples where this has happened very quickly.

2) Trees on site. Dutch elm diseased trees were historically removed from site and in 2016 there was some further removal of trees which had fallen onto the public footpath. There has been in excess of 200 new native trees and sustainable planting of slow growing hedgerow species replanted to replace them without this being a council requirement or condition. Evidenced by historic aerial photos.

3) Office use - the use of the office is solely for the existing business, office hours would accommodate this business only.

4) Ground works - see picture below where the applicant has worked historically to address concerns about run off from the fields flooding the nearby footpath by creating a pond to capture water run off.

See scanned document for photograph

5) The land has been in the family for over 3 generations with a 4th generation soon to join the business; with a wide depth and breadth of farming knowledge and expertise. Two generations work actively on the site with the 3rd about to join. The farm has diversified and is continuing to do so to adapt to changing agricultural needs.

6) All Local residents I spoke to, many of whom are farmers or former farmers, were supportive or extremely supportive of the applicant and the business and do not find it intrusive.

7) Figure 1 shows the large existing barn on site. If the proposed new property mirrors the exact proportions of the existing dutch barn, and clad as described in the planning application, it will not impact on the AONB. The design was chosen to bring provenance to the history of the site. It is not until on site that the size and positioning of the existing barn can be appreciated. If offices currently in portacabins are incorporated into this structure along with living accommodation AND existing portacabins etc are removed (secured by a perpetual condition of S106 legal agreement), the site could be less obtrusive than it currently is). Light pollution from the larger windows may need to be addressed.

8) On the morning of my site visit, weather had been extreme overnight and it was clear much activity had already taken place around the area prior to my arrival at 8.30 am. The need for more personnel to be available on site given the 24/7 nature of the business became much clearer.

9) This business must be one of the largest single employers in Newton Poppleford, and a live/work unit could mitigate:

- the loss of employment land in Newton Poppleford, (against policy Strategy 31, approved by DMC 18/0199/FUL)

- Live/work units at 09/0241/FUL which appear now to be only residential.

There would appear to be a more genuine functional need than:

-15/2866/FUL -functional need for an agricultural worker to live on site to give 24/7 care to 60 day summer growing only strawberry plants, with no further employment for anyone but the applicants. This has resulted in visual intrusion and night light pollution especially apparent in the winter months when the site can be views from numerous points across the parish within the AONB. Approved.

- 14/2806/FUL - permission to construct a class room for community benefit which is now a restaurant and was never a classroom. No employment benefit to anyone but the applicants. Approved.

- 16/2038/FUL - change of condition that stated original temporary cabin should be removed from site upon construction of a permanent dwelling. No employment benefit to anyone but the applicants. Approved.

- 13/0316/MOUT - 40 houses on a site earmarked for 15, all intrusive on the AONB with community benefit only on the so called affordable housing element. Approved. (The promised community benefit of the doctors surgery now reneged on).

Such previous deviation from policy all impacted on my initial view of this application.

10) Figure 2 shows the existing barn cannot be seen from the footpath as it is screened by trees, although the existing portacabins etc can be seen. It is proposed that these would go if the application is approved

11) The existing barn and proposed new building that would replace it can be seen from the property opposite, but the occupant is supportive of the application.

Policy that supports this application:

Strategy 27

15.23 supports jobs for local residents, skilled employment and the expansion of small successful firms.

15.24 considers applications that improve the range of services offered with strong evidence of need.

15.28 stresses consideration will be given to applications where existing buildings are within or immediately well related to settlements. Figure 2 shows nearby existing housing.

Strategy 28

Provides for development that will sustain and diversify agricultural enterprise and the re-use of rural buildings to provide jobs and accommodate business expansion. I understand there are no plans to expand the business; the application seeks to improve efficiency.

Strategy 31

16.14 resists the loss of an employment site

16.15 notes that a business can cause a nuisance to local residents. Research has shown this business is not, on balance, a nuisance to local residents and that close residents are supportive.

Strategy 48 Local Distinctiveness in the built environment - would support the design and materials proposed.

Strategy E4 - supports rural diversification and also makes the requirement to check for nesting barn owls or making more suitable provision for nesting barn owls. This would be essential.

Strategy E5 related to small scale economic development in rural areas involving the use of existing buildings or development on 'brownfield' sites.

Strategy E7 - is concerned with the existing local biodiversity and that habitats are conserved or enhanced - this would be essential.

24.8 - is concerned with succession planning on larger working family farms - as younger generations come into this 4th generation business.

See scanned document for photographs

In summary and in contrast with my original comments, I now support this application.

Other Representations

The application has received two letters of support stating there is a need for employment opportunities and much needed security for the business.

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

D1 (Design and Local Distinctiveness)

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

H4 (Dwellings for Persons Employed in Rural Businesses)

TC2 (Accessibility of New Development)

Strategy 28 (Sustaining and Diversifying Rural Enterprises)

National Planning Policy

National planning Policy Framework 2019

Site Location and Description

Homefield Farm is located half a mile north of Newton Poppleford off Venn Ottery Road.

The application site, in planning terms, is located in open countryside outside of any defined Built-up Area Boundary and within the East Devon Area of Outstanding Natural Beauty.

The existing site is used as a garden and countryside maintenance business. The applicant, who is also employed full time within the business, lives at Homefield Farm, just south west of the site. There is also a porta cabin within the applicant's ownership, currently used as office space and living accommodation just south of the existing barn.

Proposal

The applicant is seeking permission to re-build an existing Dutch barn on the eastern boundary to a live work unit. The barn would be of similar proportions to the existing barn using timber cladding.

As the site is located within the AONB, the applicant does not benefit from any fall-back position for conversion of the existing barn to a dwelling under the Prior Approval process.

ANALYSIS

The main issues for consideration relate to the principle of development and the visual impact of the proposals.

Principle of Development

Strategy 7 (Development in the Countryside) states that development in the countryside will only be permitted where it is 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.

Policy H4 - (Dwellings for Persons Employed in Rural Businesses) of the East Devon Local Plan (LP) states that dwellings in the countryside for rural workers can be permitted where proposal fully satisfies the following:

- 1. There is a proven and essential need for the occupier of the proposed dwelling to be housed permanently on the unit or in the specific rural location for functional reasons and the size of the proposed dwelling is commensurate with the scale of the established functional need.*
- 2. The rural business has been operational for a minimum of three years, it is demonstrable that it is commercially viable and has clear prospects for remaining so.*
- 4. The qualifying test of occupancy must involve at least one occupant being employed full time in the relevant rural business.*
- 5. there are no buildings on the operational holding suitable for conversion to meet the residential need or existing dwellings available within a nearby location or settlement. Sale within the last three years of any dwellings or buildings suitable for conversion will be taken into account and will count against the 'need' in the assessment carried out.*
- 6. Any permission granted will be subject to an occupancy condition tying it to the relevant business on the proposed dwelling and where appropriate, any existing dwelling on the farm holding.*

The wording proceeding this policy clarifies that the policy relates to rural workers. Rural workers are defined as '...those people whose place of work is located in, and related to, the countryside, typically comprising farm workers, forestry workers and others involved in rural-based enterprise'. Given that the applicant's business is a garden and countryside maintenance business responding to call-outs for Devon County Council, Environment Agency and others to clear snow/sand, repair sea defences, load grit and clear fallen trees, it is not considered that the proposal needs to be located in a rural area and as such it is questioned whether the proposal is a rural business that should benefit from Policy H4. There is nothing about the business that requires a countryside location for its successful operation and on this basis the proposal is not considered to be supported by Policy H4 and represents the construction of residential accommodation in an unsustainable location.

Should Members determine that the proposal is a rural business, the following assesses the proposal against the criteria to Policy H4:

1. The nature of work conducted includes contracted agricultural work, embedded labour for the Environment Agency, highways support (including public rights of way, road sweeping and ploughing), tree surgery, filling of grit bins and preparation of sites for development. Information submitted also includes a list of 'non routine' or 'Emergency Work' which includes work for Devon County Council and the Environment Agency. Emergency on call activities include the road gritting, clearing of fallen trees and repairing of sea walls. From the information submitted, the expansion of the business requires the presence of more than one member of staff available outside of normal working hours to respond to emergency calls out and provide security to the site.

There are currently 17 workers in addition to the proprietor, each working an average of 40 hours per week and requiring another manager routinely available out of hours. Due to the nature of the 'out of hours' work, the potential for emergency call outs, the need to provide sufficient security for the machinery and tools kept onsite is acknowledged. Whilst it is appreciated an additional onsite worker would benefit the businesses, the policy requires that there is a proven and essential need for the occupier to be housed permanently onsite. Such need would relate to any particular event or combination of events that could lead to adverse product quality or health and safety consequences which might threaten the stability and economic viability of an enterprise.

Mr Drake, the applicant, lives at Homefield Farm bungalow, located immediately south west of the site and shares the same access off Venn Ottery Road. The application states that the live/work unit would provide the site with needed security. However, due to the location of Mr Drake's bungalow being well physically related to the site, it is considered that security is not outstanding issue for the business. Additionally, the preamble to Policy H4 of the Local Plan states that security, on its own, will not be sufficient reason alone to justify a new dwelling.

The applicant has sought to further justify the proposal due to the 'out of hours' work that the business undertakes. Contract information has been provided detailing examples of non-routine and emergency work for Devon County Council, Skanska UK, Devon County Highways and the Environment Agency amongst others. However the frequency of these call outs appears to be low and therefore the requirement for a full time worker to be present onsite 24 hours a day in addition to the manager that lives at the existing bungalow seems excessive. The role of the additional manager would be to take out of hours calls and prepare staff and the relevant machinery. The role appears to be primarily a co-ordinating role and one that could, on the large part, be accomplished remotely.

In some cases an emergency call out requires a response time within 120 minutes. In this instance it is considered that the manager residing at the bungalow should, in most instances, be available to respond. Whilst it is appreciated that cover in certain instances will be required, this in itself does not justify the need for an additional house for an individual to be living on site as part of the operation of the business. In fact, it

is not clear to why the out of hour work cannot be fulfilled by a member or members of staff conducting shift work at the existing porta-cabin office. The argument has been put forward that an additional manager is required on site to deal with work that falls outside of usual working hours. It is of the Local Planning Authorities view that the business already has the facilities and infrastructure to provide this cover due to the presence of the existing bungalow and portacabin. The level of cover required combined with the frequency of emergency call outs is not considered to justify the need for an independent dwelling onsite.

As such the proposal has not identified an essential need for an additional workers dwelling and therefore fails to satisfy criteria 1 of Policy H4.

2. The applicant has submitted the business accounts to display that the business made a profit 2016 to 2017. To date the business is still running with no evidence to suggest that the business will not remain viable.

3. The proposal is for a permanent residential dwelling.

4. The proposal would provide accommodation for a full time manager.

5. With regards to point 5 of Policy H4, the Local Planning Authority has no reason to conclude that there have been other properties available for purchase. The proposal seeks to convert an existing agricultural building and therefore the criteria is satisfied.

Due to the above, the relevant criteria set out within policy H4 has been assessed. In summary, the proposed business is considered by the applicant to require an additional full time employee available on site due to the nature of the business and the requirement to be on call. Additionally the financial value of tangible assets stored onsite, particularly vehicles and machinery, require additional security.

However the Local Planning Authority is not satisfied that a functional need has been identified. Whilst the nature of the business requires emergency call outs at any time of the day, the low frequency of these events coupled with the presence of the existing dwelling occupied by the applicant to provide security, it is not considered to require the presence of a live work unit/dwelling. The anticipated benefits to the business as a result of the live/work unit is not thought to outweigh the harm caused by an additional dwelling in an area considered to be unsustainable and reliant upon the use of the car contrary to the local plan and its strategies and policies.

Visual Impact

Strategy 46 (Landscape Conservation and Enhancement and AONBs) of the Local Plan states that development will need to be undertaken in a manner that is sympathetic to, and helps conserve and enhance the quality and local distinctiveness of, the natural and historic landscape character of East Devon.

The application site is located upon land that sharply rises from east to west. The barn proposed to be replaced is situated on the eastern part of the site on elevated land. Therefore the barn is visible from distant views along northern and southern parts of Venn Ottery Road. However the proposals do not seek to substantially alter the scale,

form or bulk of the build and would therefore still appear agricultural in character. This therefore reduces concerns over the visual impact of the development within this prominent part of the AONB. The main visual alteration to the build would be the introduction glazing to the west elevations first floor to serve bedrooms. Initial concerns over light spill were expressed to the applicant, who in turn agreed that details of glazing could be conditioned as part of any permission. Any proposed glazing would need to be specially adapted to reduce light spill.

The Parish Council have objected to the application with regards to the developments impact upon the rural character of the area. In this instance the application proposes the building to be the same scale, mass and form of the existing barn. Whilst more glazing is proposed, necessary to serve the residential element, this is not considered to be overly harmful in the context of the wider site. Therefore the visual impact is extremely limited to additional windows and not considered to warrant refusal. Therefore the application is considered to be in compliance with Strategy 46 and Policy D1 (Design and Local Distinctiveness) of the Local Plan.

Impact on Neighbouring Amenity

The proposed live/work unit would be well set back from the public highway and from nearby residential properties. The proposed openings, whilst large, would not overlook the nearby properties to the east of Venn Ottery Road or the existing bungalow to the South West.

The proposed use of the ground floor of the building would be as a staff room, reception and office space. This level of use is considered to be compatible with the proposed use of the first floor as bedrooms. As such the application is considered to be in compliance with Policy D1 (Design and Local Distinctiveness) of the Local Plan.

Other Matters

The application would utilise the existing access with ample parking space being provided on site. The access onto Venn Ottery Road at Brooklands Cross benefits good visibility in both directions. The application has been reviewed by the County Highways Team who have not raised any issues with the application.

Appropriate Assessment

The nature of this application and its location close to the Exe Estuary and Pebbled Heaths. Their European Habitat designations is such that the proposal requires a Habitat Regulations Assessment. This section of the report forms the Appropriate Assessment required as a result of the Habitat Regulations Assessment and Likely Significant Effects from the proposal. In partnership with Natural England, the council and its neighbouring authorities of Exeter City Council and Teignbridge District Council have determined that housing and tourist accommodation developments in their areas will in-combination have a detrimental impact on the Exe Estuary and Pebblebed Heaths through impacts from recreational use. The impacts are highest from developments within 10 kilometres of these designations. It is therefore essential that mitigation is secured to make such developments permissible. This mitigation is secured via a combination of funding secured via the Community Infrastructure Levy

and contributions collected from residential developments within 10km of the designations. This development will be CIL liable and the financial contribution has been secured. On this basis, and as the joint authorities are work in partnership to deliver the required mitigation in accordance with the South-East Devon European Site Mitigation Strategy, this proposal will not give rise to likely significant effects.

CONCLUSION

The application has received support from a Local Ward Member who has expressed the view that the provision of a live/work unit has the potential to mitigate against the loss of employment land and generally support the 24/7 nature of the business. However, from the submitted account information the business is considered financially sound with every indication of remaining so. In addition, as touched upon in the main body of the report, the Local Planning Authority does not dispute that the provision of a live /work would benefit Mr Drake's business. However both National Policy and Local Plan Policy state, amongst other criteria, that the development of isolated homes in the countryside should be avoided unless an essential need for a rural worker is identified. In this case it has been concluded that an essential need has not been identified, and as such, the economic benefits to business of the proposal are not considered to outweigh the harm caused by unsustainable residential development in this area. The application is therefore contrary to the objectives of Strategy 27 and Policy H4 of the Local Plan and guidance within the National Planning Policy Framework and as such, is recommended for refusal.

RECOMMENDATION

REFUSE for the following reasons:

1. The proposed live/work unit would be located in the countryside where development is restricted in the interests of countryside protection and would result in residential accommodation that is not close to a range of services and facilities and not accessible other than by motor vehicle. As such the proposal is contrary to Strategy 7 (Development in the Countryside) and Policy TC2 (Accessibility of New Development) of the East Devon Local Plan 2013-2031. Should it be considered that Policy H4 is applicable, the proposal fails to demonstrate that there is a functional requirement for the applicant to live at the site and as such the proposal would also be contrary to Policy H4 (Dwellings for Persons Employed in Rural Businesses) of the East Devon Local Plan 2013-2031 as well as Strategy 7.

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 listed building 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:

TM654.P3	Proposed Elevation	28.11.18
TM654.P2	Proposed Floor Plans	28.11.18
TM654.P1	Proposed Site Plan	28.11.18
	Location Plan	28.11.18

List of Background Papers

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