

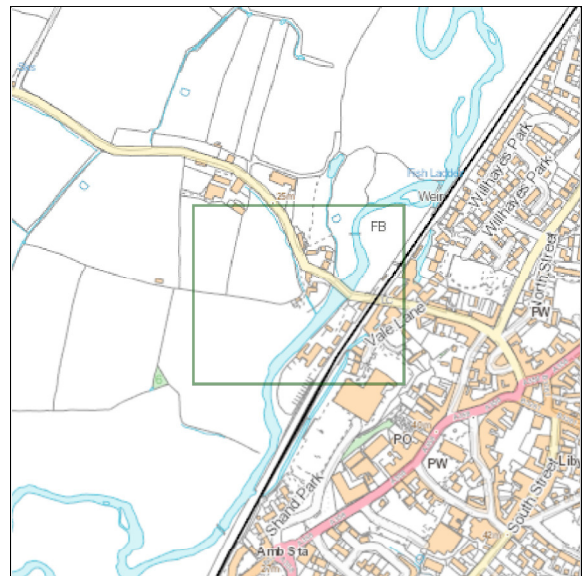
**Ward** Axminster

**Reference** 19/1874/FUL

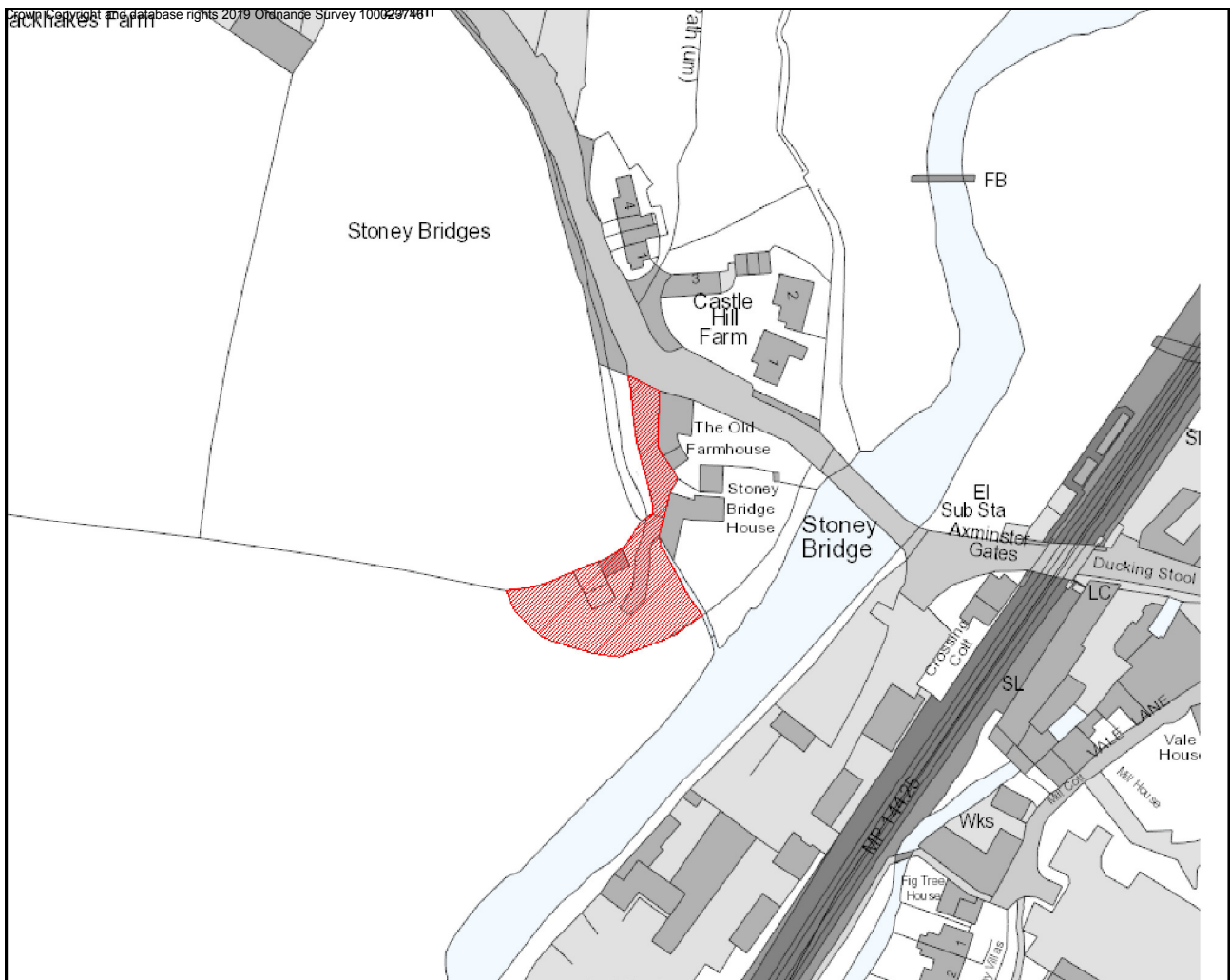
**Applicant** Mr Andrew Young

**Location** Land South West Of Stoney Bridge Axminster

**Proposal** Change of use of land from agricultural to private amenity/recreational use and siting of steam tractor workmen's hut for such purposes



**RECOMMENDATION: Approval with conditions**



		<b>Committee Date: 7<sup>th</sup> January 2020</b>
<b>Axminster (Axminster)</b>	<b>19/1874/FUL</b>	<b>Target Date: 14.11.2019</b>
<b>Applicant:</b>	<b>Mr Andrew Young</b>	
<b>Location:</b>	<b>Land South West Of Stoney Bridge Axminster</b>	
<b>Proposal:</b>	<b>Change of use of land from agricultural to private amenity/recreational use and siting of steam tractor workmen's hut for such purposes</b>	

**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

The application is before committee as it represents a departure from Local Plan Policy.

The applicant owns the site and lives close by, at The Old Farmhouse, they have sited the steam tractor workmen's hut, 'the hut', on the land and it is understood that its use is for private recreational purposes.

The land is nominally in agricultural use but there is no active agricultural use taking place and the site area is separated from the larger field to the west by existing flood prevention earthworks, it is not considered that the loss of this small parcel of land would have any harmful impact on agricultural activities.

The site lies close to the River Axe and is in a high risk flood zone, given this, it is unsuitable for any form of residential use, including for occasional overnight stays. The applicant has confirmed that there is no intention to use the hut as such and on this basis and subject to the imposition of conditions to restrict its use, and to provide a plan detailing flood evacuation proposals in a flood event, the Environment Agency has raised no objections to the scheme.

In terms of the impact of the development on the character and appearance of the area, views of the site are restricted and where these are possible see the hut in close relation to the neighbouring property, Stoney Bridge House. This being the case there would be no discernible harm resulting from the proposed development.

On the basis of the lack of any identifiable harm that may result from the development and where the use of the site can be effectively controlled by

**conditions the proposal is considered to be acceptable and is recommended for approval.**

## **CONSULTATIONS**

### **Local Consultations**

#### Parish/Town Council

AXMINSTER TOWN COUNCIL SUPPORTS THIS APPLICATION

#### Axminster - Cllr Andrew Moulding

I see that the expiry date has passed.

I would have proposed a recommendation.

#### Axminster - Cllr Sarah Jackson

I have no objection

### **Technical Consultations**

#### Environment Agency

Original Comments:

Thank you for consulting us on this application.

Environment Agency position:

We recommend that you do not determine this application until such time that the applicant has submitted an adequate flood risk assessment (FRA) to fully establish the risks posed to and from the development. The reason for this position and advice is provided below.

Reason - The Site is located in flood zone 3, identified by Environment Agency Flood Maps as having a high probability of flooding. The application is for a change of use that does not result in more vulnerable use but also includes the addition of a free standing structure (workmen's hut) within the flood zone. The vulnerability of this hut has not been specified within the application, however from the information provided we are assuming that there is no sleeping accommodation, and therefore is not 'more vulnerable'. However, if there is a 'more vulnerable' use to this development, please re-consult us with that confirmation. We consider that the FRA is not a comprehensive assessment of the risks posed by the additional structure within the flood zone. It does not adhere to the requirements of the National Planning Policy Framework (NPPF). A brief consideration of likely flood depths for the location suggests that water depths in excess of 1.0m would be experienced during the design event. This has implications for the stability of the structure and consideration must be taken for the potential for the hut to be moved by the flood water downstream and the impairment of flow that this could result in.

If the FRA can address the following points, then we would consider the development to be acceptable.

- o The document is not authored and dated. It should be seen as a current document which is prepared by a competent person.
- o A design flood level needs to be assigned to the development site, taking into account climate change over the lifetime of the development.
- o Safe access and egress to the site, and contingency plans in the event of flooding, is not considered.
- o The specific use proposed for the shepherd's hut should be defined.
- o Baseline data in the form of a 'product 4' request from the Environment Agency is not considered. It should be established whether the location is considered as 'functional floodplain'. The product 4 data can be provided by emailing DCISEnquiries@environment-agency.gov.uk .

Finally, the inclusion of the proposed workmen's hut within the application would suggest that the sequential test is applicable, and therefore we remind your authority that this is required in accordance with the NPPF if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.

Further comments (06.11.19):

Thank you for clarifying that the proposed steam tractor workmen's hut will not be used for sleeping accommodation. We have reviewed the application again considering this detail. The workman's hut does not constitute a building, and therefore, in line with the National Planning Policy Framework (NPPF), we would consider that the sequential test is not applicable. We apologise for the confusion caused by our previous letter which alluded to the requirement for the sequential test. In addition, the only 'change of use' development that is subject to the sequential test is that of camping and caravan developments. This also does not constitute a caravanning development because no overnight sleeping is proposed.

Technically, because the site is located within flood zone 3, the application should be supported by an adequate Flood Risk Assessment (FRA), however given the scale and nature of the development, we advise that the proposal may be made acceptable by the inclusion of conditions on any permission granted. If you are minded to approve this application, we would recommend including conditions regarding the implementation of a flood evacuation procedure, so that the structure can be taken off site in the event of a flood, following flood warnings, or, in cases where this is not possible, the provision of a tether system to ensure that the structure cannot be swept away during a flood event and pose a risk of blocking a watercourse to cause additional flooding.

#### Other Representations

No comments received

### **POLICIES**

Adopted East Devon Local Plan 2013-2031 Policies  
Strategy 7 (Development in the Countryside)

Strategy 20 (Development at Axminster)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

EN21 (River and Coastal Flooding)

#### Government Planning Documents

National Planning Practice Guidance

NPPF (National Planning Policy Framework 2019)

#### **Site Location and Description**

The application site relates to a level area of land located to the immediate southwest of Stoney Bridge house and northwest of the River Axe, the area to the west is low lying agricultural land. The site area measures just over 0.1ha. An open ditch runs along the northeast boundary of the site with Stoney Bridge House and to the south and west a low bank defines the site and separates it from adjoining land. A post and rail fence and hedge marks the northern boundary of the site. There is the remains of a stone barn and lean-to shed adjacent and central to this boundary. A wheeled hut (referred to as a steam tractor workmen's hut) is sited to the eastern side of the site. The site is accessed via a track that from Castle Hill to the north and which leads to a field gate in the northeast corner of the site.

The site lies outside the built-up area boundary of the town and within a designated high risk flood zone (Flood Zone 3).

#### **Proposed development**

Permission is sought for the change of use of the land from agricultural to private amenity/recreational use and siting of steam tractor workmen's hut. The applicant has confirmed that the hut would not be used for overnight accommodation but simply for the families use.

As the land is located on the opposite side of the road to the applicant's house, consent is sort for amenity/recreational use as the proposal cannot form part of the garden/curtilage to the main house.

#### **ANALYSIS**

The main issues in the determination of the application relate to:

- The principle of the development
- Impact on the character and appearance of the area
- Flood risk
- Amenity Impact

## Principle

The site lies in open countryside outside the built-up area boundary of the town and therefore the principle of development is covered by Strategy 7 of the East Devon Local Plan (EDLP). This policy only supports development where explicitly permitted by another policy of the Local or (where applicable) Neighbourhood Plan and where it would not harm the distinctive landscape, amenity or environmental qualities within which it would be located.

In this instance there are no such policies that would specifically permit the change of use of the land as proposed and therefore there is a conflict with policy in this respect.

It is recognised that the default use of the land is agricultural but that there appears to be no agricultural use taking place at present. In addition, the existing flood banks separate the land in question from the wider field to the west and are likely to limit the productive agricultural uses to which it could be put, although some low key agricultural storage use might be possible. The proposed flood defence works proposed (see below) are likely to further restrict the connectivity with the larger parcel of land to the southwest and the usability of the site for productive agricultural purposes.

However, despite the lack of planning policy support, it needs to be considered whether there is any harm that arises from the proposal to justify a refusal of planning permission. The relevant considerations are addressed below before the principle of development is finally addressed in the Conclusion section below.

## Impact on the character and appearance of the area

The 'hut' measures 4 metres in length, is 2.2 metres wide and has an overall height of 3.3 metres (the floor level being 1 metre above ground level). It has a rounded corrugate sheet roof and vertical timber boarded elevations. It is painted in a muted green colour. At the time of officer site visit it was located toward the eastern side of the site but, unless specifically restricted, if permission were granted it could be located on any part of the site.

Public views of the 'hut' and wider site are, despite its low lying location close to the town, restricted. Glimpsed close range views from the local road on approach road from the north would be possible with mid to long range views from higher land further to the north and east. These views would see the site in close physical relation to the existing residential development to the northeast, comprising of Stoney Bridge House and The Old Farmhouse.

The stated purposes of strategy 7 are amongst other things to conserve and enhance the environment and to ensure no harm would arise to the landscape, amenity or environmental qualities within which it is located. Whilst forming part of the attractive Axe Valley the site falls outside of any specifically designated landscape and no operational development is proposed. The impact of the development on the landscape therefore relates only to that resulting from the siting of the 'hut'. Given the limited nature of public views of the site and the inherently rural character and appearance of it, it is not considered that the proposal would give rise to any landscape

harm. The use sought would not convey any additional permitted development rights and this limits the potential for any further unregulated development which might result in harm.

### Flood Risk

The site lies within Flood Zone 3 (FZ3) and forms part of the flood plain to the River Axe to the west side of Axminster. Policy EN21 of the EDLP, following on from the guidance on flood risk in the National Planning Policy Framework (NPPF) and associated Planning Practice Guidance (NPPG), seeks to locate development within areas of lowest flood risk. However the policy and guidance is clear that this sequential approach does not apply to 'minor development' or changes of use (except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site).

The proposal involves a change of use and the siting of a hut which, whilst not likely to be suitable for permanent residential occupation, could be used for temporary overnight or holiday accommodation. In this regard the applicants have confirmed that this is not the intention and that there is no intention to use the hut for overnight accommodation. If the proposal were otherwise considered to be acceptable a condition could be imposed to prevent its use for such purposes. On this basis, the Environment Agency has amended their original comments and advised that the application need not be the subject of the sequential test. Furthermore, their original objection has been withdrawn subject to the imposition of conditions to ensure the 'hut' does not represent a risk of compounding flood risk issues during times of flooding.

It should be noted that there is a current undetermined application under consideration for flood improvement works to the Axe Valley involving land around the site (17/2266/MFUL). In relation to the application site those works indicate proposed improvements to and extension of the existing flood bank along the western and southern sides of the site. It is not considered that the proposal would interfere with or affect the ability to carry out these works should they be granted.

### Amenity Impacts

The site lies adjacent to an existing and unrelated residential property (the applicant's residing in the property to the north of this). The use sought is considered to be low key and does not include use for the purposes of residential accommodation or overnight stays. It would be restricted to recreational/amenity use and in such a way is likely to give rise to similar levels of noise/activity as a residential garden, there is therefore no reason to consider such impacts would be harmful.

### **CONCLUSION**

There is no support in the Local Plan for the proposed use of the land for amenity purposes for the applicant to site the steam tractor workman's hut for private use.

However, the proposal would have a very limited visual impact, and from the limited views available the proposal would have an acceptable appearance. The Environment Agency have removed their original objection subject to conditions and overnight

accommodation use can be restricted by condition to address their comments. In addition, the proposal would not result in any harm to the amenity of nearby residents (of which the applicant is one).

Therefore, despite there being no explicit policy support within the Local Plan for the proposal, given the lack of any identified harm, and subject to conditions, it is considered that the proposal is acceptable.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. Notwithstanding the time limit to implement planning permission as prescribed by Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended), this permission being retrospective as prescribed by Section 63 of the Act shall have been deemed to have been implemented on the 4th October 2019.  
(Reason - To comply with Section 63 of the Act.)
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. Within 6 weeks of the date of the permission hereby granted the applicant shall submit to the local planning authority, for their written approval, a flood warning and evacuation plan. Such a plan shall set out the measures to be undertaken by the applicant in the event of a flood warning to either remove the steam tractor workmen's hut from the site, or where this is not possible the means of secure tethering of the hut to prevent it being swept away in a flood event. Development shall be carried out in accordance with details as approved.  
(Reason - In order to minimise flood risk on and off site and to accord with policy EN21 (River and Coastal Flooding) of the Adopted East Devon Local Plan 2013-2031 and the guidance in the National Planning Policy Framework and associated Planning Practice Guidance.)
4. The steam tractor workmen's hut, the siting of which is hereby approved, shall at no time be used for any residential, commercial or holiday letting purposes and explicitly shall not be used to provide overnight accommodation.  
(Reason - The site lies within Flood Zone 3 where there is a high risk of flooding, such uses would represent more vulnerable forms of development where planning policy directs such uses to areas at lower risk, in accordance with policy EN21 (River and Coastal Flooding) of the Adopted East Devon Local Plan 2013-2031 and the guidance in the National Planning Policy Framework and associated Planning Practice Guidance related to flood risk.)
5. The permission hereby granted relates only to the siting of the steam tractor workmen's hut detailed in the application and identified in the submitted photographs and explicitly excludes the siting of any additional or replacement caravans, chattels or other structures.



(Reason - To allow the Local Planning Authority to retain control over the use of the land in the interests of the character and appearance of the area in accordance with policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031.)

#### NOTE FOR APPLICANT

##### Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

##### Plans relating to this application:

	Location Plan	16.09.19
	Proposed Site Plan	19.09.19
B	Photos	16.09.19

##### List of Background Papers

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