

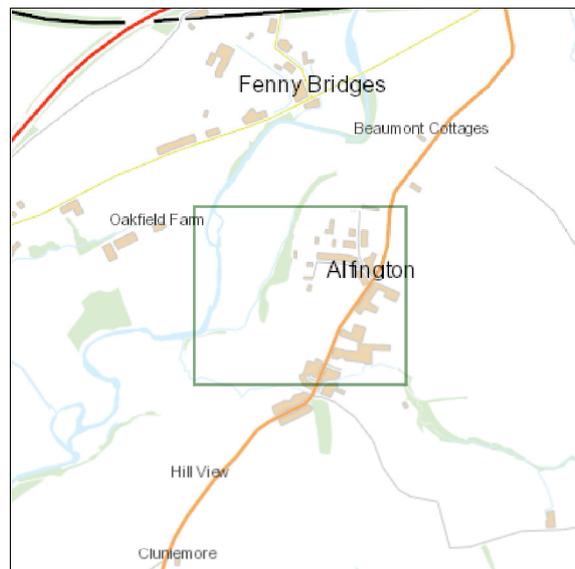
**Ward** Ottery St Mary

**Reference** 20/0280/VAR

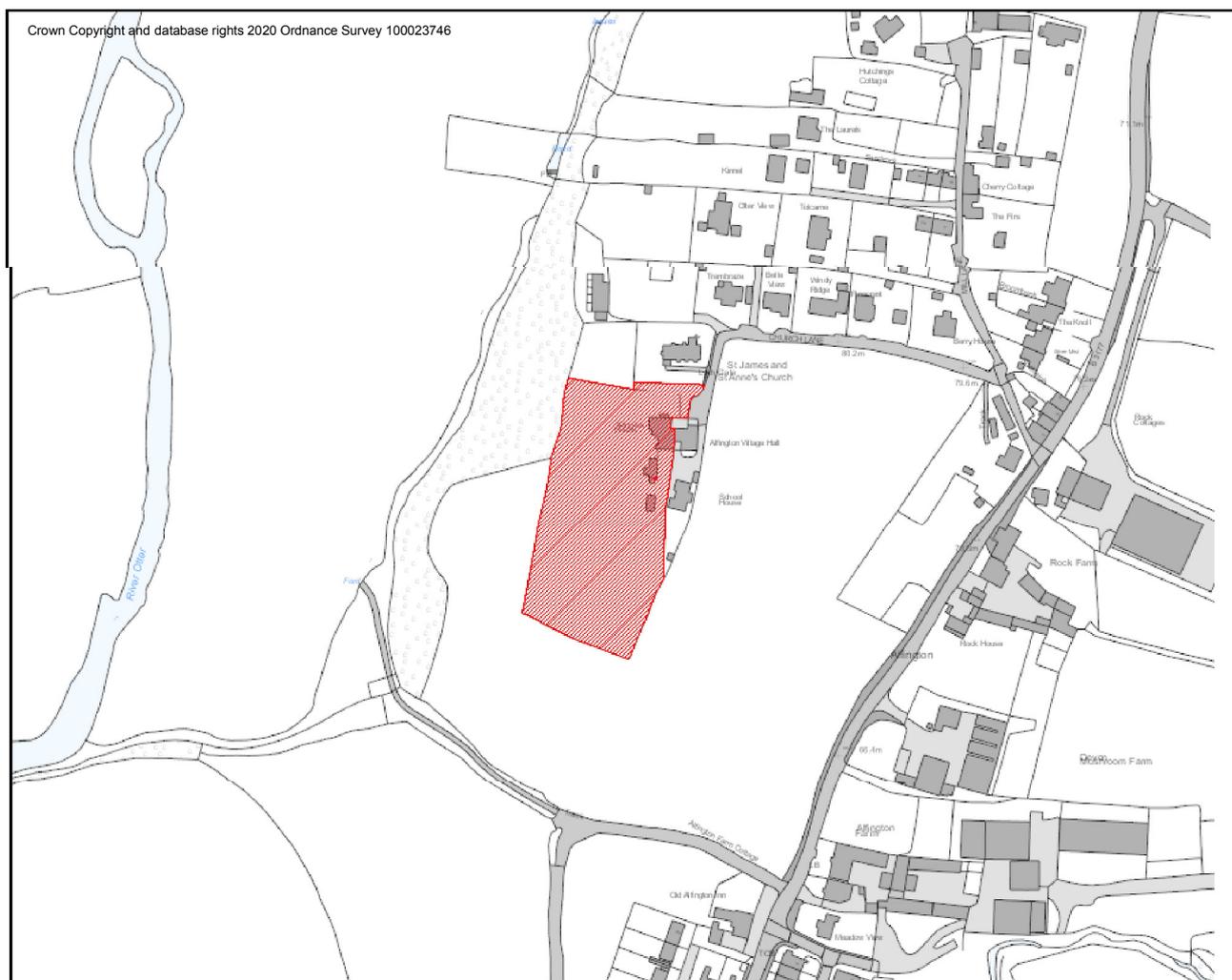
**Applicant** Mr Stuart Matthews

**Location** Alfington House Church Lane Alfington Ottery St Mary EX11 1PE

**Proposal** Application to vary condition 1 (Use Condition) of planning permission 10/0625/FUL to allow use as a bed and breakfast ancillary to the use of Alfington House.



**RECOMMENDATION: Refusal, with enforcement action to restore the use of the building in accordance with the original condition.**



		<b>Committee Date: 18<sup>th</sup> May 2020</b>
<b>Ottery St Mary (Ottery St Mary)</b>	<b>20/0280/VAR</b>	<b>Target Date: 06.04.2020</b>
<b>Applicant:</b>	<b>Mr Stuart Matthews</b>	
<b>Location:</b>	<b>Alfington House Church Lane</b>	
<b>Proposal:</b>	<b>Application to vary condition 1 (Use Condition) of planning permission 10/0625/FUL to allow use as a bed and breakfast ancillary to the use of Alfington House.</b>	

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#### **EXECUTIVE SUMMARY**

**This application is before Members as the recommendation is contrary to the view of one of the Ward Councillors.**

**Planning permission is sought to vary a condition to allow a converted outbuilding ancillary to the main house to be used as B&B accommodation operated from Alfington House. The use has already begun in contravention of the condition.**

**Policy E16 of the Local Plan is broadly supportive of the re-use of rural buildings for holiday accommodation purposes and the proposal satisfies most of the criteria of that policy. Where concerns have been raised by a neighbour, these can be addressed through a suitable re-wording of the condition or through future planning applications.**

**However, the proposal has given rise to an objection from the Highway Authority on the grounds that the proposal would lead to increased use of a severely substandard junction. The junction concerned is where Church Lane meets the B3177, which provides the only vehicular access to the site. Visibility in both directions at this junction is extremely poor, with emerging vehicles relying on mirrors to see oncoming traffic. The Highway Authority does not support the use of mirrors as an alternative to the provision of proper visibility splays because they can be misleading and unclear. Furthermore, the applicant cannot provide improved visibility.**

**While the proposal would bring a small economic benefit, this would be outweighed by the danger to the users of the holiday accommodation as well as to other road users. The proposal is therefore recommended for refusal, along**

**with enforcement action to cease the holiday accommodation use and to revert the building to its lawful use as an annexe.**

## **CONSULTATIONS**

### **Local Consultations**

#### Ottery St Mary - Cllr Vicky Johns

With the information that I have to hand I don't have any objection to this application. As long as the neighbours have no objection, it doesn't lead to too much of an increase in the volume of traffic that uses the road and it doesn't cause any parking problems to uses of the village hall or Church. I reserve the right to change my opinion if any new information comes to light.

#### Ottery St Mary - Cllr Geoff Pratt

I have no objection to this application provided that the Decision contains Conditions as set out in the letter from Mr and Mrs Creek dated 5th March 2020. Mr and Mrs Creek live in The Old School House adjacent to the site of the Coach House and there are concerns regarding the possible use of the driveway leading to the Coach House

I do not consider the objection by Highways to be of any merit due to a very limited amount of additional traffic.

#### Parish/Town Council

Ottery St Mary Town Council supports this application but has a concern about the number of vehicle movements on the road.

#### Other Representations

One representation has been received objecting unless:

- Access is only via Alfington House from the north
- The coach house cannot be sold separately
- The use is not for long-term letting
- No business other than B&B is permitted

### **Technical Consultations**

#### Environmental Health

I have considered the application and do not anticipate any environmental health concerns relevant to the planning process. My colleagues in the commercial team will contact the applicant in due course to discuss any food hygiene matters that need addressing.

#### Devon County Highway Authority

The site in question is located on Church Lane, B1777.

The access to the site is of poor visibility, sub-standard to our current standard on both approaches, the presence of highway mirrors in this vicinity further emphasises this issue. The County Highway Authority (CHA) no longer endorses the use of highway

mirrors as it has been found to make objects appear further away than they truly are, it can also present a dazzling effect in low or direct sunlight.

Though I appreciate that the access is existing, due to the problem fore-mentioned the CHA would not wish to see the access undergo any increased use from increased trip generation. I also understand that the original application 10/0625/FUL in which this variation is based on was approved, however it must be stressed that this was for ancillary use and therefore has limited additional trip generation occurrence.

Therefore, in summary the CHA wish to raise an objection to this planning application.

### **PLANNING HISTORY**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
03/P3046	Conversion Of Stable/garage Annexe To Residential Annexe	Refusal	30.01.2004
10/0625/FUL	Conversion of two storey coach house to ancillary office, gym/garden room/changing room, gallery/studio and dormitory for foreign exchange students including alterations and extension.	Approval with conditions	28.04.2010

### **POLICIES**

#### Ottery St Mary and West Hill Neighbourhood (Made)

Policy NP1: Development in the Countryside

Policy NP9: Accessible Developments

Policy NP20: Small-scale Farm Based Tourism

#### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

Strategy 33 (Promotion of Tourism in East Devon)

D1 (Design and Local Distinctiveness)

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

E16 (Proposals for Holiday or Overnight Accommodation and Associated Facilities)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

#### Government Planning Documents

NPPF (National Planning Policy Framework 2019)

### **Site Location and Description**

Alfington House is located just beyond the church at the end of Church Lane in Alfington. Described as a village in the Neighbourhood Plan, Alfington is a fairly linear settlement situated on the B3177 with development focussed in two distinct clusters.

The application site is in the Church Lane/Mill Lane part of the settlement where the church and village hall are located. In the other part of the village to the south of the site there is a small shop and access to the local bus service but the pub closed several years ago.

The application building is a former outbuilding which has been enlarged and has permission for ancillary use to the main house. It is situated close to the host dwelling and can be accessed from there or via a separate access around the side and rear of the village hall. This is also the access to School House, a dwelling situated just to the south east of the application building.

Alfington does not have a Built-up Area Boundary and the site is therefore in the countryside for planning policy purposes.

The building is detached from the main house and although there is a right of way to the building which is shared with the Old School House and the church hall, it is understood that the building is mainly accessed from the parking area on the north side of the host dwelling.

The property is advertised on AirBnB and is described as follows:

“The Coach house is recently renovated to a very high standard. It consists of a living room with plenty of seating, wood burner and free supply of logs, under floor heating, a dining room that opens into our extensive gardens, a bathroom with shower and plenty of fluffy towels and an upstairs double bedroom with seating area with views over the River Otter and garden. It is ideal for a couple but we can add a crib and/or single bed for young family if given prior notice.

#### The space

There is no kitchen although there is a range of crockery and glasses with a small fridge and tea and coffee making facilities and basket of complimentary fruit teas, ground and instant coffee, hot chocolate and biscuits. We want to make your visit as comfortable and enjoyable as possible.

There is plenty of parking and although you can park immediately out side we do request that you park by the house and walk through the garden to reduce disturbance of neighbours.

#### Guest access

The coach house opens onto the garden If staying for longer than a couple of days there are washing facilities for laundry by arrangement.

#### Other things to note

There are two sun loungers for use in the garden in which you are welcome to sit and enjoy the scenery. We appreciate how much energy youngsters have so you are welcome to let them play in the garden so long as you supervise them at all times.”

From this description it is clear that the building is not currently adapted for independent occupation.

## **Background**

Planning permission was sought in 2003 to convert the building from a garage/store to an annexe for elderly relatives. Permission was refused on a number of grounds: highway concerns in relation to the road leading to the site, conflict with policy restricting the creation of new dwellings in the countryside, design concerns, and privacy impacts.

The same applicants applied again in 2010, this time proposing ancillary uses, such as a home gym, changing facilities for their swimming pool and a home office. Provision was also made for a small 'dorm' which the applicants required in their role as guardians for international students studying at schools in the UK. Based on the uses proposed in that application, permission was granted but a condition was imposed to prevent any independent occupation or commercial use. The condition states:

The building subject of the application shall be used only in conjunction with, and ancillary to, the use of Alfington House as a single dwelling house and shall not be used as a separate dwelling or for any commercial, industrial or business purpose.

(Reason - The building is unsuitable for independent residential occupation and a commercial use could cause undue noise to adjoining occupiers.)

It is this condition which the applicants now seek to vary to allow B&B use.

## **Proposal**

Planning permission is sought to enable the use of the converted outbuilding for Bed and Breakfast purposes as well as to retain the ancillary use. The B&B use has already begun although it is not clear when it commenced.

## **Assessment**

The main issue for consideration is whether the principle of development is acceptable in this location.

The policy framework under which this application must be considered is entirely new since the 2003 and 2010 applications were determined. Even so, many of the principles are unchanged and it remains the case that the site is in the countryside for planning policy purposes.

The current local plan permits development in the countryside only where it would be in accordance with a specific local or neighbourhood plan policy.

Policy NP20 of the Neighbourhood Plan supports small scale holiday accommodation in the countryside but only where this would diversify a farm business. This builds on

Policy E19 of the Local Plan and reinforces Policy E4 but does not benefit the current proposal because there is no connection to a farm.

The main Local Plan policy of relevance is policy E16 which supports "Conversion or use of existing buildings in the open countryside, within close proximity to the main farm house or country house, for small-scale holiday accommodation uses", subject to a number of criteria. These criteria are now addressed in turn:

*1. The scale, level and intensity of development is compatible with the character of the surrounding area, including adjoining and nearby settlements.*

As a single unit of accommodation with other residential properties nearby, the proposal would neither be out of scale nor out of character with its surroundings.

*2. The proposal does not harm the amenities enjoyed by the occupiers of neighbouring properties.*

Although the neighbours raised concerns about privacy in the 2003 scheme, these were addressed in 2010 and the Council concluded at the time that there would be no loss of privacy. It was also commented upon that re-use of the building might lead to increased activity near to the neighbour's dwelling but this was not expected to give rise to significant adverse effects.

The current application proposes no alterations to window or door openings and therefore raises no new privacy issues. Furthermore, although the use would give rise to holiday makers unfamiliar with the area coming and going, it is understood that this has been well managed so far and has not interfered with the neighbour's amenity.

Nevertheless, the current arrangements are informal and the neighbours, supported by one of the ward councillors, have made a number of suggestions regarding control over the use of the building. The first relates to access and is accepted. If planning permission were to be granted, an extra condition requiring the occupants of the building to park in front of Alfington House and to access the accommodation from the north would be justified. This would prevent frequent intrusion into the privacy of the occupiers of the Old School House if the other access were to be used.

The second suggestion is that the applicants should be prevented from selling the building separately. If they were to do that it is likely that the sole access would have to be via the access shared with The Old School House. However, it is not clear what access rights any future owners would acquire with the building nor what use it could be put to in the absence of a planning permission granting an independent use. Given that the planning authority cannot control ownership, a condition covering this is not possible. However as the planning authority would maintain control over future uses, and could therefore take into account any impact on the neighbours, it is not considered necessary to control ownership.

The third suggestion is that long-term letting of the property should not be allowed. From the submitted information it is clear that this is not what the applicants are seeking and, if the Committee is minded to grant planning permission, the condition

limiting the use would ensure that it could only be used for B&B purposes, or for uses ancillary to the occupation of the main house.

The fourth suggestion is that no other commercial use of the property should be allowed. Again, the applicants are not seeking any such use and the use could be limited by condition. Furthermore the planning authority would retain control over other uses.

In summary, it is considered most all of the neighbour's concerns can be addressed (excluding the control over ownership), if the Committee is minded to grant permission.

*3. On-site servicing and parking facilities are provided commensurate with the level and intensity of the proposed use.*

As alluded to, there is parking provision on the north side of Alfington House which is adequate for the holiday accommodation and the host dwelling.

*4. The proposal is accessible on foot, by bicycle and public transport and will not impair road safety or the free flow of traffic.*

There are no public footpaths connecting the site to any services or facilities and no pavements on the main road. However, there is informal provision of a path around a field linking Church Lane to the other main cluster of houses in the village, bypassing the main road. Although this has no formal status there is no reason to believe that it will be withdrawn in future. This path means that holiday makers would be able to access the local bus service which connects Alfington to Ottery St Mary and Honiton. Alternatively, car journeys to local amenities in Ottery St Mary or Honiton would be fairly short. While this location is not ideal, and means the occupants are likely to be car-dependent, it is acceptable for a holiday use.

Turning to road safety, owing to the limited alternatives to accessing the site by car, it is likely that most, if not all, holiday makers staying at the property would arrive by car and make further car journeys from the site during their stay. The only vehicular access to the property is via the junction of Church Lane with the B3177. Visibility at this junction is severely substandard and drivers of vehicles emerging onto the main road rely on mirrors to see oncoming traffic from both directions. This is not an acceptable substitute for the appropriate visibility splays, which the applicant cannot provide in this case, and poses a danger to road users. On this basis the Highway Authority has objected to the proposal as it will result in an increase in traffic.

In mitigation the applicant has said "use of the coach house only occurs when we do not have our family (3 young, car owning adults) at home so the presence of B&B guests reflect a net reduction in the amount of traffic using Church & Mill Lanes." However, this is not accepted as mitigation for the risk. First, the applicant's family and business arrangements are personal to them; future owners of Alfington House are unlikely to occupy it in the same way. Second, the planning authority cannot control how many people occupy the main house but use of the outbuilding can be controlled. If the original permission is complied with, family occupation is unlikely to change but there would be no holiday use. In other words, approving this application would lead to occupation of the building when otherwise it would be empty and this would increase

the danger to road users. Finally, while it is accepted that local residents (including family) are familiar with the dangers of this junction, guests would not be and therefore the introduction of a holiday use represents an increased risk, both to the occupants of the building and other road users.

On that basis, criterion 4 is not satisfied and the proposal would also conflict with Policy TC7, which seeks to ensure that the proposed access would be safe.

For completeness, policy D8 of the local plan and paragraph 79 of the NPPF also need to be considered. Arguably, the site is not in an isolated location where the provisions of paragraph 79 would apply but policy D8 is in broad compliance with the NPPF in that both support the re-use of buildings in the countryside. However, in this case there would be no enhancement to the building or its setting as a result of the proposal and in any case these policies do not overcome the highway safety concerns.

In summary, owing to highway safety concerns, the proposal conflicts with Policies E16 and TC7 and hence also with Strategy 7 of the Local Plan.

## **CONCLUSION**

The proposal would benefit the local economy and has already been doing so. This weighs in favour of the proposal. Indeed, Strategy 33 supports high quality tourism in the district. However, as the strategy makes clear, such development must be sustainable and should not be at the expense of other local plan objectives which seek to locate new development where it can be accessed safely.

In this case the only vehicular access to the property is severely substandard and consequently the highway authority has recommended refusal. In view of this objection, the risk to road users is considered to outweigh the economic benefit arising from the B&B use.

The proposal is therefore recommended for refusal, along with a recommendation for enforcement action to remedy the breach in the interests of highway safety and on the basis of the conflict with Strategy 7 and Policies E16 and TC7 of the Local Plan.

## **Human Rights Act 1998**

In recommending enforcement action the Human Rights Act 1998 and the European Convention on Human Rights have been considered with special attention being given to Article 8(1) of the European Convention on Human Rights which provides a right to respect for one's "private and family life, his home and his correspondence", subject to certain restrictions that are "in accordance with law" and "necessary in a democratic society".

The 'public interest' within Article 8(2) is considered necessary for the economic well-being of the country. In light of the harm identified, it is considered that the investigative actions undertaken and any subsequent and future enforcement action which may be undertaken are necessary and proportionate. In particular, such action would not conflict with the occupant's human rights.

## **RECOMMENDATION**

REFUSE for the following reason:

1. Use of the building for holiday accommodation purposes would lead to increased use of the junction of Mill Lane and the B3177 which has severely substandard visibility. This would pose a danger to occupants of the accommodation and other road users. The proposal would therefore be contrary to Policies E16 - Proposals for Holiday or Overnight Accommodation and Associated Facilities and TC7 - Adequacy of Road Network and Site Access and Strategy 7 Development in the Countryside of the East Devon Local Plan 2013 - 2031.

And serve an ENFORCEMENT Notice under section 172 of the Town and Country Planning Act 1990 on the owner(s) to secure:

- the cessation of the use of the building other than in accordance with condition 1 of planning permission ref 10/0625/FUL granted on 28 April 2010
- at The Coach House, Alfington House, Church Lane. Alfington, Ottery St Mary, EX11 1PE
- because planning permission has been refused for the development as it is likely to cause a danger to highway safety contrary to Strategy 7 and Policies E16 and TC7 of the Local Plan
- with a time period for compliance of 3 months.

Appeal Costs: 2 x £234

### 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 seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

### Plans relating to this application:

Letter

10.02.20

### List of Background Papers

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